

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH
MUMBAI**

**BEFORE: SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
&
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 3128/MUM/2024
(Assessment Year : 2021-22)**

Rolta Defence Technology Systems Pvt. Ltd. Through Neha Jain Nemani, Resolution Professional Rolta Tower-C, Rolta Technology Park, MIDC, Marol, Andheri (East), Mumbai-400093.	Vs.	Asst. Commissioner of Income Tax, Circle-3(1)(1), Room No. 607, 6 th Floor, Aayakar Bhawan, Maharshi Karve Road, Mumbai-400020.
PAN/GIR No. AAHCR4981K		
(Appellant)	..	(Respondent)

Assessee by	Shri. Shekhar Gupta
Revenue by	Smt. Sanyogita Nagpal (CIT DR)
Date of Hearing	07/08/2024
Date of Pronouncement	29/10/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 29.04.2024 passed in Appeal no. NFAC/2020-21/10309144 by the Ld. Commissioner of Income-

- tax(Appeals)/ National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-Tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment year [A.Y.] 2021-22, wherein assessee's appeal against the penalty order dated 23.06.2023 passed u/s. 270A of the Act, has been dismissed ex-parte by the learned CIT(A).
2. The brief facts under appeal state that the assessee filed its return of income for the A.Y. 2021-22, declaring total income as Nil with current year business loss of Rs. 3,92,12,935/-. Subsequently, the total income of the assessee was assessed at Rs. 29,82,56,38,182/- vide order dated 26.12.2022 passed u/s. 143(3) of the Act and penalty proceedings u/s. 270A were also initiated separately for misreporting of income leading to under reporting of income. Learned assessing officer imposed penalty of Rs. 15,27,13,52,986/- vide penalty order dated 23.06.2023.
 3. Aggrieved by the penalty order, assessee preferred an appeal before learned CIT(A), who dismissed assessee's appeal ex-parte.
 4. Assessee has filed this second appeal on the ground that learned CIT(A) has erred in law and on the facts of the case in sustaining the order of the assessing officer, levying penalty of Rs. 15,27,13,52,986/- u/s. 270A of the Act.
 5. In response to the notice issued by the tribunal, learned DR appeared and participated in the hearing.

6. We have perused the records and heard learned representatives for both the parties.
7. Learned representative for the assessee has, at the very outset informed that impugned order has been passed by learned CIT(A) ex-parte, in violation of the principles of natural justice. Prayed to set aside the impugned order.
8. Learned DR has submitted that assessee was provided sufficient opportunity of hearing by learned CIT(A) but for no avail. Learned DR has supported impugned order.
9. We notice that the assessee did neither respond to the various notices issued by the learned assessing officer nor did he respond before learned CIT(A) despite afforded opportunity of hearing. The irresponsive conduct of the assessee resulted in the ex-parte impugned order under compulsion. However, in the interest of justice and fair play, we deem it just and appropriate to afford last opportunity to the assessee and remit the matter back to the file of learned CIT(A) for denovo adjudication on merits afresh. We further direct the assessee to be diligent and cooperative in attending the hearings and making submissions before the learned CIT(A) for the expeditious and effective disposal. Assessee should refrain from seeking any adjournment but for compelling and unavoidable circumstances to be decided by learned CIT(A). Needless to say that learned CIT(A) shall ensure the observance of the principles of natural justice. It is made clear that we have not made any observation in respect of the merits of the case. The appeal is liable to be allowed.

10. In the result, the appeal is allowed in above terms. Impugned order dated 29.04.2024 and penalty order dated 23.06.2023 are set aside. The case is restored back to the file of the learned CIT(A) for statistical purposes.
Order pronounced on 29.10.2024.

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Mumbai; Dated 29/10/2024
Anandi Nambi, *Steno*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai