

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC - C” BENCH : BANGALORE**

BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT

ITA No.1854/Bang/2024
Assessment Year : 2015-16

Shri. Yalamati Raghavendra, H No. 55 BDDIVAL Camp – 1, Sindhanoor, Raichur – 584 167. PAN : ATBPR 5348 G	Vs.	ITO, Ward –1, Raichur.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Monish Sawkar, Advocate
Revenue by	:	Shri. Ganesh R Gale, Standing Counsel for Department.

Date of hearing	:	24.10.2024
Date of Pronouncement	:	24.10.2024

ORDER

Per George George K, Vice President:

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 06.08.2024, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2015-16.

2. At the outset, I notice that the appeal of the assessee has been dismissed *in limine* without adjudicating on merits. The reason for dismissing the appeal *in limine* is on account of non-payment of admitted tax as per the provisions of section 249(4)(b) of the Act. The learned AR submitted that assessee had now paid the admitted tax and placed on record the challan evidencing payment of admitted tax. The learned AR placed reliance on the judgment of the Hon'ble

Karnataka High Court in the case of M/s. SSS Projects Ltd., Vs. DCIT in ITA No.177 of 2014 and contended that when admitted taxes are paid though subsequently, the appeal may be heard on merits. Therefore, it was submitted that the matter may be restored to the CIT(A) to adjudicate issues on merits.

3. The learned Standing Counsel was duly heard.

4. I have heard the rival submissions and perused the material on record. The CIT(A) had dismissed the appeal of the assessee for non-payment of the admitted tax for a sum of Rs.1,42,200/-. Now assessee had produced proof of payment of the same and prayed that the matter may be restored to the files of the CIT(A) to adjudicate the issues on merits.

5. The Hon'ble jurisdictional High Court in the case of M/s. SSS Projects Ltd., Vs. DCIT (supra) had held that since assessee had deposited admitted tax, the subject matter of appeal is remitted to the First Appellate Authority for adjudication on merits. The relevant finding of the Hon'ble jurisdictional High Court in the case of M/s. SSS Projects Ltd., Vs. DCIT (supra) reads as follows:

“8. The substantial questions of law on which, the appeal was admitted would not arise for consideration at this stage, since we are of the view that the matter needs to be remanded to the First Appellate Authority i.e., Commissioner of Income Tax. The First and Second Appellate Authorities refused to entertain the appeal of the appellant herein only on the ground that the appellant had failed to deposit the admitted tax. Therefore, any question that is to be examined shall have to be decided by the Appellate Authorities on merits. Since the appellant has deposited the admitted tax as on this date, we deem it appropriate to remit the subject matter of the appeal to the First Appellate Authority i.e., Commissioner of Income-tax.”

6. Therefore, the issue is restored to the files of the CIT(A) to examine the claim of the assessee that the admitted tax has been paid. If the CIT(A) finds that the admitted tax has been paid, he shall adjudicate the issues on merits. It is ordered accordingly.

7. In the result, appeal filed by the assessee is allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(GEORGE GEORGE K)
Vice President

Bangalore.

Dated: 24.10.2024.

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| 1. Appellants | 2. Respondent |
| 3. DRP | 4. CIT |
| 5. CIT(A) | 6. DR, ITAT, Bangalore. |
| 7. Guard file | |

By order

Assistant Registrar,
ITAT, Bangalore.