

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.1312/Ahd/2024
(Assessment Year: 2017-18)

Shree Saibaba Exim Pvt. Ltd., 902, Galav Chamber, Sayajigunj, Vadodard-390020	Vs.	Income Tax Officer, Ward-2(1)(3), Vadodara
[PAN No.AATCS6800N]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Darshan Belani, A.R.
Respondent by:	Shri Sanjay Kumar, Sr. D.R.
Date of Hearing	23.10.2024
Date of Pronouncement	23.10.2024

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre, (in short “NFAC”), Delhi vide order dated 27.06.2023 passed for A.Y. 2017-18.

2. The Assessee has taken the following grounds of appeal:-

“1. The learned CIT(A) erred in law and on facts in deciding the appeal ex-parte. It is submitted that the Appellant had genuine and reasonable cause for not being able to file written submissions before the learned CIT(A), and therefore, the order passed by the learned CIT(A) ex-parte be quashed and the matter be restored to the file of the learned CIT(A) for adjudication denovo.

2. The learned CIT(A) erred in confirming the addition of Rs.1,27,20,000/- u/s.68 of the Act, which was beyond the scope of limited scrutiny for which its case was taken up for scrutiny as mentioned by the learned Assessing Officer in the assessment order. It is submitted that the case was selected for limited scrutiny to verify the exempt income as well as investment/advance/loan which suggests that the learned Assessing Officer was required to inquire about the investment made or loans and advances given by the Appellant and not in respect of the unsecured loans availed by the Appellant.

The learned Assessing Officer has, thus, exceeded the jurisdiction beyond limited scrutiny, and hence, the order passed by him as confirmed by CIT(A) is bad in law and liable to be quashed.

3. The learned CIT(A) erred in law and on facts in confirming the addition of Rs.1,27,20,000/- received as unsecured loan by the Appellant during the year under consideration u/s.68 of the Act. It is submitted that the Appellant has led sufficient evidences in order to prove identity of the party, genuineness of the transaction and creditworthiness of the party, and thus, discharged the onus that lay upon it u/s.68 of the Act. It is submitted that it be so held now and the addition of Rs.1,27,20,000/-made by the learned Assessing Officer and confirmed by CIT(A) be deleted.

4. The appellant reserves the right to add, alter or amend any of the grounds of appeal.”

3. At the outset, we observe that the appeal is time barred by 312 days. The assessee filed an Affidavit for condonation of delay vide Affidavit dated 19.06.2024, wherein the assessee stated that the order of NFAC was served on the assessee's registered email id. However, the person who was looking after the taxation and finance matters of the company left the job and did not convey the company about the CIT(A)'s order. After verification of the past records, the company noticed that the appeal has to be filed before the Tribunal. There was an inadvertent delay on the part of the assessee, as a result of which there was a delay of 312 days in filing of the present appeal. The Counsel for the assessee submitted that there was no mala fide intention in delaying the filing of the appeal and hence the same may be kindly condoned.

4. Looking into the instant facts and the reasons cited by the assessee, the delay of 312 days in filing of the present appeal is hereby condoned in the interest of justice.

5. At the outset, both the parties submitted that the Ld. CIT(A) passed order ex-parte without adjudicating in detail on the merits of the issue.

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6. The Ld. Counsel for the assessee pleaded that given an opportunity, due compliance would be made before the Ld. CIT(A).
7. The Ld. Sr. D.R. objected in principle.
8. However, having gone through the records, we are of the opinion that no prejudice would be caused to the Revenue if an opportunity of being heard is given to the assessee by the Ld. CIT(A). The Ld. CIT(A) shall pass the order de-novo after giving due opportunity of hearing to the assessee. The assessee shall submit all the details and comply with all the notices before Ld. CIT(A) from time to time without seeking any unnecessary adjournment.
9. In the result, the appeal of the assessee is allowed for statistical purposes.

This Order is pronounced in the Open Court on 23/10/2024

Sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Ahmedabad; Dated 23/10/2024

TANMAY, Sr. PS

TRUE COPY

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR,
ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad