

**IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH, MUMBAI**  
**BEFORE SHRI SAKTIJIT DEY, VP AND SHRI AMARJIT SINGH, AM**

ITA Nos. 304/Mum/2024 to 307/Mum/2024

(Assessment Years: 2013-14 to 2016-17)

Shree Rajlaxmi Textile Park Pvt. Ltd. C/o. K. B. Amlani & Co. 14, Malkans, DR Lazrus Road, Cherai, Thane (W), Thane-400 602	Vs.	The Assistant Commissioner of Income Tax, Central Circle-1 Income Tax Department, Road No. 16, Wagle Estate, Ashar IT Park, 6 <sup>th</sup> Floor, Thane (W)-400 604
PAN/GIR No. AAKCS 5236 M		
<b>(Appellant)</b>	:	<b>(Respondent)</b>

<b>Appellant by</b>	:	Shri Satyaprakash Singh
<b>Respondent by</b>	:	Smt. Sanyogita Nagpal

<b>Date of Hearing</b>	:	19.11.2024
<b>Date of Pronouncement</b>	:	22.11.2024

**ORDER**

Per Saktijit Dey, VP:

These are bunch of four appeals by the same assessee, challenging four separate orders of the learned Commissioner of Income Tax (Appeals)-Pune ('ld.CIT(A) for short), pertaining to assessment years (A.Y. for short) 2013-14, 2014-15, 2015-16 and 2016-17.

2. The common primary grievance of the assessee in all these appeals is against *ex parte*, orders being passed by the departmental authorities without providing reasonable opportunity of being heard to the assessee.

3. We have heard the parties and perused the materials available on record. Facts on record reveal that the assessee is a resident corporate entity. A search and seizure operation u/s. 132 of the Income Tax Act, 1961 ('the Act' for short) was carried out at various office and residential premises of Indian Logistics Group on 17.09.2019, as also in case of Shri Ravi Jaysukh Chauhan and Shri Rudrapratap Tripathi and others. Based on the materials found and information received in consequence of search and seizure operation, the Assessing Officer (AO) noticed that the assessee was in receipt of certain income which were not offered to tax. Accordingly, he reopened the assessment u/s. 147 of the Act for A.Y. 2013-14. Whereas, in respect of A.Ys. 2014-15, 2015-16 and 2016-17, he initiated proceeding u/s. 153C of the Act. As alleged by the A.O., the assessee did not comply with any of the statutory notices issued u/s. 142(1)/143(2) of the Act. Therefore, he proceeded to complete the assessments *ex parte*, to the best of his judgement, by invoking the provisions of section 144 of the Act. While doing so, based on the information available on record, he made various additions at the hands of the assessee in all the assessment years in dispute.

4. Against the assessment orders so passed, the assessee preferred appeals before the first appellate authority. However, as could be seen, due to lack of representation by the assessee in course of appellate proceedings, learned first appellate authority disposed of the appeals *ex parte* and while doing so, he confirmed all the additions made by the A.O.

5. Before us, the Id. Counsel appearing for the assessee submitted that the primary reason for *ex parte* disposal of the appeals before the learned first appellate authority was due to non-compliance by the Chartered Accountant engaged by the assessee. He submitted, the assessee was completely kept in dark with regard to the appellate proceedings and without the instructions of the assessee, the concerned Chartered Accountant engaged by the assessee took repeated adjournments and did not represent the case. He submitted, due to lack of proper representation by the concerned Chartered Accountant, documentary evidences contesting various additions could not be furnished, which ultimately resulted in confirmation of the additions. Thus, he submitted, the issues arising in the appeal may be restored back to departmental authorities for enabling the assessee to properly represent its case with supporting evidences.

6. Though, learned Departmental Representative ('Id. DR' for short) relied on the observations of the first appellate authority. However, she left it to the discretion of the Bench.

7. Having considered rival submissions and perused the materials available on record, we find that in course of assessment proceedings, various notices issued by the A.O. were not complied with compelling the A.O. to complete the assessments *ex parte*, to the best of his judgement, by invoking the provisions of section 144 of the Act. It is also observed that while completing the assessments, the A.O. has made various additions in different assessment years under dispute. Even, before learned first

appellate authority as well, there was no representation from assessee's side. From the observations made in the appellate order, it is noticed that on each of the occasions the appeals were fixed for hearing, the Chartered Accountant engaged by the assessee took adjournment on some pretext or other. Hence, due to lack of proper representation, learned first appellate authority proceeded to dispose of the appeals *ex parte* sustaining the additions made by the A.O.

8. The aforesaid facts clearly reveal that the *ex parte* disposal of the appeals by learned first appellate authority was on account of repeated adjournment sought by the Chartered Accountant engaged by the assessee and the assessee, as submitted before us, might have been kept in dark. Thus, lack of proper representation or non compliance may not be at the instance of the assessee. Considering the fact that various additions were made in the assessment proceedings and were sustained by learned first appellate authority due to lack of proper representation and supporting evidences, we are of the considered view that the assessee must get a fair opportunity to contest the additions through effective representation by furnishing supporting evidences. Since, the assessee did not get such opportunity before the A.O. as well as learned first appellate authority, may be due to non-cooperation of the Chartered Accountant engaged by it, in the interest of fair play and justice, we are inclined to set aside the impugned orders of learned first appellate authority and restore all the issues arising in the appeals to the file of the A.O. for fresh adjudication, after providing due and reasonable opportunity of being heard to the assessee. We direct the assessee to comply with all the notices/queries to be made by the A.O. with supporting evidences and co-operate in

finalizing the proceedings. With the afore-said observations, the appeals are disposed of.

9. In the result, all the appeals are allowed for statistical purposes.

*Order pronounced in the open court on 22.11.2024*

Sd/-

(Amarjit Singh)  
Accountant Member

Mumbai; Dated : 22.11.2024  
Roshani, Sr. PS

Sd/-

(Saktijit Dey)  
Vice President

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai