

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "A" MUMBAI**

**BEFORE HON'BLE JUSTICE (RETD.) C V BHADANG, PRESIDENT  
AND  
SHRI BR BASKARAN (ACCOUNTANT MEMBER)**

**ITA No. 4788/MUM/2023  
Assessment Year: 2017-18**

Laxmipati Impex Pvt. Ltd.,  
C/O B-804, Suman Ashish, B/H  
Soham Residency, Soham Circle,  
Althan,  
Surat-395 017.  
**PAN NO. AABCL 5983 D**  
**Appellant**

ITO Ward 1(2)(1),  
Room No. 582, Aayakar Bhavan,  
Mumbai.  
**Vs.**  
**Respondent**

Assessee by : Mr. Ramesh Malpani  
Revenue by : Mr. Akshay Tapdiya, Sr. DR

Date of Hearing : 18/11/2024  
Date of pronouncement : 21/11/2024

**ORDER**

**PER BR BASKARAN, AM**

The assessee has filed this appeal challenging the order dated 30.11.2023 passed by the Ld. CIT(A), NFAC, Delhi it relates to assessment year 2017-18.



2. The assessee is aggrieved by the decision of the Ld. CIT(A) in confirming the validity of reopening of assessment and also additions made by the AO.

3. This appeal was earlier disposed of by the Co-ordinate Bench, vide its order dated 08.05.2024 passed ex-parte, since none appeared on behalf of the assessee. Since the above said order was passed ex-parte, the assessee moved a Miscellaneous petition, which was numbered as MA No. 196/Mum/2024, seeking recall of the ex-parte order passed by the Tribunal. Accordingly, the Tribunal, vide its order dated 23.09.2024, recalled above said order and the appeal was restored back. Accordingly, this appeal came to be placed before this Bench.

4. The Ld. AR submitted that the Assessing Officer has passed the order to best of his judgment u/s 144 of the Act, since the assessee did not appear before him. He submitted that the Ld. CIT(A) has also passed ex-parte order because of failure of the assessee to represent before him.

5. The Ld. AR submitted that the assessee was engaged in the business of export of various items and it suffered heavy losses in that business. Hence the assessee closed the business about three years back. Further, all the directors shifted their residence to Gujarat. He further submitted that the fact that assessee has closed down his business three years back has also been confirmed by the



report given by the Inspector who carried out the physical verification address of the assessee. Hence, the assessee/ directors were not aware of the notices issued by the Assessing Officer as well as the Ld. CIT(A). He submitted that the earlier tax consultant also did not inform the assessee about the proceedings. The Ld. AR submitted that the assessee has actually incurred losses in this year. The Ld. AR submitted that the assessee has incurred losses in the succeeding year also and it has been accepted by the AO.

6. The Ld A.R submitted that, since the assessee could not represent before the tax authorities, it has filed various documents before the Tribunal as additional evidences in support of return of income. He prayed that the additional evidences may be admitted and all the issues may be restored back to the Assessing Officer for examining them afresh.

7. We have heard the Ld. DR and perused the record. Having regard to the submissions made by the Ld A.R, we are of the view that there was a reasonable cause for the assessee for not appearing before the tax authorities. Before us, the assessee has filed various documents in the form of additional evidences, since they could not be filed before the tax authorities. In the facts of the case discussed above, we are of the view they should be admitted and accordingly admit them. Since these evidences require examination at the end of the AO, we set aside the order passed by the Ld. CIT(A) and restore all the issues to the file of the AO for



examining them afresh. We also direct the assessee to fully cooperate with the Assessing Officer for expeditious completion of the assessment.

6. In the result, the appeal filed by the assessee is treated as allowed.

**Order pronounced in the open Court on 21/11/2024.**

**Sd/-  
(JUSTICE (RETD.) C V BHADANG)  
PRESIDENT**

**Sd/-  
(BR BASKARAN)  
ACCOUNTANT MEMBER**

Mumbai;  
Dated: 21/11/2024  
Rahul Sharma, Sr. P.S.

**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,  
(Assistant Registrar)  
**ITAT, Mumbai**