

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH, MUMBAI

BEFORE SHRI OM PRAKASH KANT, AM  
AND MS. KAVITHA RAJAGOPAL, JM

ITA No.4205/Mum/2024  
(Assessment Year: 2015-16)

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|---|-----|--|
| <b>M. P. Recycling Company Private Limited</b><br>51-53/A, Mittal Court, Nariman Point,<br>Mumbai-400 021 | Vs. | <b>Asst. CIT, Central Circle 4(2)(1)</b><br>Mumbai-400 020 |
| PAN/GIR No. AADCM 3153 A  |     |  |
| (Assessee)  | :   | (Respondent)   |
| Assessee by   | :   | None   |
| Respondent by   | :   | Shri R. R. Makwana   |
| Date of Hearing   | :   | 17.10.2024   |
| Date of Pronouncement   | :   | 27.11.2024   |

**ORDER**

**Per Kavitha Rajagopal, J M:**

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2015-16.

- As there was no representation on behalf of the assessee, we hereby dispose of this appeal by hearing the learned Departmental Representative ('Id.DR' for short) and on perusal of the materials available on record.
- The assessee has raised the following grounds of appeal:

*“The Commissioner of Income-tax (Appeals) at the National Faceless Appeal Centre (NFAC) (hereinafter referred to as the CIT(A)) erred in upholding the action of the Assistant Commissioner of Income-tax, Circle 4(2)(1), Mumbai (hereinafter referred to as the Assessing Officer) in levying the impugned penalty of Rs 2,65,12,070 under section 271(1)(c) of the Act.*

*The appellants contend that on the facts and in the circumstances of the case and in law, the Assessing Officer ought not to have levied the impugned penalty under section 271(1)(c) of the Act inasmuch as he has not appreciated the facts of the case in its entirety.*

*The appellants further, contend that on the facts and in the circumstances of the case and in law, the impugned notice dated 31.12.2017 issued under section 274 r.w.s. 271 is a printed form of notice not specifying the charge brought against the appellants that is, whether it is for furnishing of inaccurate particulars of income or concealment thereof, and as such, the notice suffers from the virus of non-application of mind and hence, the impugned order levying penalty is bad in law and consequently, not tenable.*

*The appellants crave leave to add to, alter or amend the aforestated ground of appeal.”*

4. Brief facts of the case are that the assessee filed its return of income dated 31.10.2015 declaring loss at Rs. 7,60,94,352/- and the same was processed u/s. 143(1) of the Act. The assessee's case was then selected for scrutiny and assessment order dated 31.12.2017 was passed by the Id. AO determining total income at Rs. 4,60,20,220/- under the normal provisions and Rs. 3,51,36,024/- on book profits after making various addition/disallowance. The Id. AO also initiated penalty proceedings u/s. 271(1)(c) of the Act for concealment of particulars of income. The Id. AO vide order dated 30.07.2022 levied penalty u/s. 271(1)(c) of the Act amounting to Rs. 2,65,12,070/-.
5. Aggrieved the assessee was in appeal before the Id. CIT(A), who vide an ex parte order dated 26.06.2024 upheld the penalty levied by the Id. AO on the ground that the assessee was non compliant throughout the appellate proceedings and has failed to furnish any reply before the Id. CIT(A).
6. The assessee is in appeal before us challenging the order of the Id. CIT(A).

7. We have heard the Id. DR and perused the materials available on record. It is observed that the assessee has challenged the penalty levied by the Id. A.O. before the first appellate authority but has been non compliant throughout the appellate proceeding. Though, the assessee has raised various grounds on the merits and on the legal ground the assessee has failed to furnish any documentary evidences in support of its claim even before us. In the interest of justice, we deem it fit to extend the assessee with one more opportunity to present its case before the First Appellate Authority with all supporting documentary evidences to substantiate its claim. The assessee is directed to cooperate in the appellate proceedings without any undue delay on its side and the Id. CIT(A) is also directed to decide the issue on the merits of the case based on the submission of the assessee. We therefore remand all these issues to the file of the Id. CIT(A) for denova adjudication.
8. In the result, the appeal filed by the assessee is allowed for statistical purpose.

*Order pronounced in the open court on 27.11.2024*

Sd/-  
(Om Prakash Kant)  
Accountant Member

Sd/-  
(Kavitha Rajagopal)  
Judicial Member

Mumbai; Dated: 27.11.2024  
Karishma J. Pawar (Stenographer)

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai

5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai