

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जगदीश, लेखासदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2177/Chny/2024
निर्धारण वर्ष /Assessment Year: 2021-22

M/s. Unity Forge Pvt. Ltd.,
D-10, Industrial Estate,
Maraimalai Nagar S.O.,
Kanchipuram – 603 209.
[PAN: AAACU 0829N]

Vs. The Income Tax Officer,
Corporate Circle-3(1),
Chennai.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri Siddharth Mallinathan, Advocate
: Ms. R. Anita, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 21.10.2024

घोषणा की तारीख /Date of Pronouncement

: 21.10.2024

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid appeal filed by the assessee is against the order of Learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] date 18.06.2024 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s.143(3) r.w.s 144B of the Income Tax Act, 1961 (hereinafter "the Act") on 21.12.2022.

: - 2 - :

2. The only effective ground of appeal in this appeal of assessee is against the order of Ld. CIT(A) in confirming the ex-parte order passed by A.O.

3. The assessee-company has filed return of income declaring loss of Rs. 4,41,59,301/-. The A.O has passed order u/s. 143(3) of the Act making addition of miscellaneous expenses of Rs.24,44,170/- without awaiting reply of show cause notice. On appeal, the Ld. CIT(A) has confirmed the addition without going into merits of the case relying on the order of ITAT, Delhi in the case of CIT vs. Multiplan India Pvt. Ltd. reported in 38 ITD 320 (Delhi).

4. The Ld. Authorized Representative (A.R) of the assessee before us has submitted that the A.O has issued show cause notice on 07.12.2022 and the assessee sought adjournment till 24.12.2022. However, the A.O has passed order on 21.12.2022 without waiting for assessee's response. The Ld. AR has submitted that the Ld. CIT(A) has also passed order ex-parte without providing opportunity and deciding the case on merits. Therefore, prayed to restore the matter back to the A.O.

5. The Ld. Departmental Representative (DR), on the other hand, has relied on the orders of lower authorities.

: - 3 - :

6. We have heard the rival submissions, and perused the materials available on record. On perusal of the order of the A.O, we find that the order has been passed without considering reply of the assessee while making disallowance of Rs. 24,44,170/-. The Ld. CIT(A) has not decided the case on merit and dismissed the appeal ex-parte. We are of the opinion that keeping in view the principles of natural justice, the assessee be provided with another opportunity of hearing to substantiate his case before the A.O. Accordingly, we set aside the orders passed by the lower authorities and remit the matter back to the file of the A.O to adjudicate this appeal afresh in accordance with law, after giving reasonable opportunity to the assessee. We also direct the assessee to appear before the A.O on the date of hearing without fail. In view of the above, the appeal filed by the assessee is allowed for statistical purposes only.

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

Order pronounced in the open Court on 21st October, 2024.

Sd/-
(महवीर सिंह)
(Mahavir Singh)

उपअध्यक्ष / Vice President

Sd/-
(जगदीश)
(Jagadish)

लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 21st October, 2024.

EDN/-

: - 4 - :

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF