

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "G", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SMT RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No.3204/M/2024
Assessment Year: 2012-13**

M/s. Windston Spring Pvt. Ltd., 7, Nand-Deep Industrial Estate, Kondivitalane, Andheri-Kurla Road, Andheri East, Mumbai - 400 059 PAN: AAACW0542J	Vs.	Dy. Commissioner of Income Tax 8(3)(2), Unit No.C-25, Second Floor, Plot No.13, Shri Ram Industrial Estate, G.D. Ambedkar Marg, Wadala, Mumbai Maharashtra - 400031
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Rahul Hakani, Ld. A.R.
Revenue by : Shri Swapnil Sawant, Ld. SR. A.R.

Date of Hearing : 18.09.2024
Date of Pronouncement : 27.11.2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 18.04.2024, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2012-13.

2. In the instant case, the Assessee by filing its original return of income on 29.09.2012 has declared its total income of Rs.46,44,90,369/- which was accepted by the AO vide assessment order dated 27.02.2015 u/s 143(3) of the Act.

3. Subsequently, the case of the Assessee was reopened by recording the reasons for reopening and issuing the notice dated 27.03.2018 u/s 148 of the Act which resulted into making the disallowances of Rs.18,10,389/- u/s 14A of the Act and Rs.1,62,500/- on account of loss on sale of investment.

4. The Assessee being aggrieved, challenged the addition of Rs.18,10,389/- on account of disallowance u/s 14A r.w.rule 8D of the Income Tax Rules, 1962 (in short the Rules), however, failed to participate in the appellate proceedings before the Ld. Commissioner. Therefore, in the constrained circumstances, the Ld. Commissioner specifically in the absence of any evidence and explanation from the Assessee, ultimately affirmed the addition of Rs.18,10,389/- by dismissing the appeal of the Assessee.

5. The Assessee, being aggrieved, is in appeal before us.

6. The Ld. Counsel Shri Rahul Hakani, Ld. Advocate at the outset has submitted that though the Assessee has received notice dated 11.03.2020 u/s 250 of the Act issued by the Ld. CIT(A)-50, however due to Covid-19 pandemic, the Assessee could not respond to the same. Thereafter, the Assessee received the notice dated 01.11.2022 being communication

enablement notice and the Assessee in the good faith believed that fresh notice would be issued by NFAC. However, thereafter no notice was ever issued by the NFAC but the order dated 18.04.2024 which is impugned herein was passed. The Assessee in support of the said claim has also filed duly sworn affidavit. And therefore, the assessee request for grant an opportunity to place on record relevant documents which may be accepted and case may be remanded to the file of the Ld. Commissioner for decision afresh.

7. On the contrary the Ld. DR though refuted the claim of the Assessee but the factual aspects.

8. We have given thoughtful consideration to the Ld. Counsel's contentions raised qua non-appearance before the Ld. Commissioner, which appears to be bonafide and genuine and plausible, hence, we are inclined to accept the same in the interest of justice. The Assessee has further prayed that the Assessee in order to support its case has filed various documents before the Hon'ble Tribunal which goes to the route of the matter and therefore the same may be considered. As we are convinced by the explanation of the Assessee for non- appearance before the Ld. Commissioner and therefore for the just decision of the case and substantial justice, we are inclined to set aside the impugned order and consequently remanding the instant case to the file of the Ld. Commissioner for decision afresh, suffice to say by affording reasonable opportunity of being heard to the Assessee as well as by taking into consideration the additional evidence/any other document/material which the Assessee has produced before us and further wants to produce before the Ld. Commissioner.

9. In the result, the appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced in the open court on 27.11.2024.

**Sd/-
(RENU JAUHRI)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.