

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.270/Nag./2024
(Assessment Year : 2017-18)

Vineer Glass Industries
149-A, Wardhman Nagar
Nagpur 440 008 PAN – AAAPV9138Q

..... Appellant

v/s

Income Tax Officer
Ward-3(5), Nagpur

..... Respondent

Assessee by : Dr. Milind Bhusare
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 28/11/2024

Date of Order – 06/12/2024

ORDER

PER V. DURGA RAO, J.M.

This appeal by the assessee is against the impugned order dated 03/01/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*"learned CIT(A)"*], for the assessment year 2017-18.

2. In its appeal, the assessee has raised following grounds:-

"1) The Id. CIT Appeal is not justified and correct in dismissing the appeal due to the reason that the deficiencies in Form 35 and not rectified by the assessee in spite of several notices, infact the SMS were received on the mobile of the assessee but the notices are not visible on the IT portal. In fact the e-proceedings not scrolling down on the window of the assessee. With the reason that the assessee has not received any notice of the Id. CIT.

2) *The Assessee's appeal was fixed for hearing vide notice u/s. 250 by DIN ITBA/NFAC/F/APL_1/2023-24/1055388547(1) dtd. 24/08/2023 and in response to the assessee has made a partial submission on 31/08/2023 vide ack. no. 413672771161023. The assessee intended to file final submission but the window was not available to the assessee for which assessee has filed grievance on 29/12/2023 vide ack. No. 15751622.*

3) *Inspite all these facts the Id. CIT Appeal has dismissed the appeal for non-compliance of his notices to remove the defects in form 35 by the assessee.*

4) *The order passed by the Id. AO is totally unjustified, illegal, bad in law and against nature justice of the assessee."*

2. During the course of hearing, the Registry has pointed out a delay of 60 days in filing the present appeal before the Tribunal. While going through the record available before us, we find that the assessee has filed a letter dated 02/05/2024, requesting the Bench for condoning the delay in filing the appeal. The reason for the delay in filing the appeal is as under:–

"The appellant has received appeal order from Hon'ble CIT Appeal NFAC, Delhi on 03/01/2024. The appellant has filed appeal before the Hon'ble ITAT 08/02/2024 vide ack. no. 1707379338. The Hon'ble ITAT vide their email dtd. 08/02/2024 has not accepted the appeal for the reason that on Form no. 36 full name and designation of appellant has not been mentioned and order of CIT Appeal, AQ and grounds before the CIT Appeal not certified by the appellant. A screen shot of the email from ITAT is enclosed herewith.

Due to unhealth of partner and due to closure of business, the appellant has missed the said intimation and now the fact came to the notice about the rejection of the appeal, the appellant is filing the appeal with request to condone the delay of about 60 days. The original is filed in time and fresh appeal is delayed due to the reason mentioned above.

In view of the above facts it is most humbly submitted that delay in filing the appeal may kindly be condoned and appeal may be admitted."

3. After considering the above submissions of the assessee, we are of the opinion that the assessee is prevented in filing the appeal belatedly and we are satisfied that the delay in filing the appeal is due to reasonable cause. Consequently, we condone the delay of 60 days in filing the present appeal and admit the same for adjudication on merit.

3. We find that the assessee has not furnished any relevant papers before the learned CIT(E) and, therefore, the learned CIT(A) has not passed the order on merits and simply rejected the claim of the assessee. Therefore, in the interest of justice and following the principles of natural justice, we set aside the impugned order passed by the learned CIT(A) and restore the matter to the file of the learned CIT(A) for denovo adjudication in accordance with law and after providing reasonable opportunity of being heard to the assessee. We direct the assessee to file all the relevant details as required by the learned CIT(A). Thus, all the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 06/12/2024

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED: 06/12/2024

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur