

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.226/Nag./2024
(Assessment Year : 2018-19)

Parinee Growers Pvt. Ltd.
Block no.23, Lanjewar Bhavan
65, Central Avenue, Nagpur 440 018
PAN – AAGCP0243F

..... Appellant

v/s

Income Tax Officer
Ward-5(3), Nagpur

..... Respondent

Assessee by : Shri Kishore P. Dewani
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 27/11/2024

Date of Order – 06/12/2024

ORDER

PER V. DURGA RAO, J.M.

This appeal by the assessee is against impugned order dated 15/02/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2018-19.

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

"1. The order passed by Commissioner of Income Tax (Appeals). National Faceless Appeal Centre dated 15/02/2024 u/s 250 of I.T. Act 1961 is illegal, invalid and bad in law.

2. The learned CIT(A) erred in holding that there is delay of 228 days in filing of appeal even though at para 12 of submission of appeal reproduced at page

4 of appellate order indicates that there is no delay in filing of appeal in the case of assessee.

3. The learned CIT(A) erred in dismissing the appeal by holding that there is not sufficient cause for condoning the delay in the institution of appeal even though there is no delay in filing of appeal.

4. The order passed u/s 143(3) r. w. s. 143(3A) and 143(3B) of I.T. Act 1961 is illegal, invalid and bad in law.

5. The income determined at Rs.3,13,00,000/- is unjustified, unwarranted and bad in law.

6. The addition made by A.O. u/s 68 of I.T. Act 1961 at Rs.3,13,00,000/- and levying tax u/s 115BBE is unjustified, unwarranted and bad in law.

7. The learned A.O. erred in holding that Rs.3,13,00,000/- is credited in loan account to be treated as cash credit u/s 68 and liable to be taxed u/s 115BBE of I.T. Act 1961."

3. When the case was called for hearing, the learned Counsel for the assessee submitted that the learned CIT(A) has dismissed assessee's appeal on the ground of delay in filing the appeal. In fact, the assessee filed its appeal before the learned CIT(A) on time and there was no delay. This issue was confronted with the learned Departmental Representative. In response, the learned D.R., after referring to the records, submitted that the order passed by the learned CIT(A) is incorrect and there was no delay in filing the appeal by the assessee before the learned CIT(A).

4. By considering the material available on record and the submissions of both the parties, we came to the conclusion that there is no delay by the assessee in filing its appeal before the learned CIT(A). Insofar the merits of the case is concerned, the assessee's Counsel submitted that he has already filed an appeal Paper Book. The learned Counsel also filed Paper Book before us consisting of Page-1 to 97 providing various details such as bank statement, confirmation from the parties and all other details. The learned

Counsel further submitted that it needs detailed enquiry and examination by the Assessing Officer hence, he made a prayer to restore the appeal to the file of the Jurisdictional Assessing Officer for denovo adjudication on merit. Per-contra, the learned Departmental Representative fairly accepted and submitted that the appeal be restored to the file of Jurisdictional Assessing Officer. Consequently, we are of the view that since various papers which are part of Paper Book available at Page-51 to 97, these papers are required to be examined by the Jurisdictional Assessing Officer, hence, we set aside the impugned order passed by the learned CIT(A) and restore the entire matter to the file of the Jurisdictional Assessing Officer for denovo adjudication in line with the findings given above and in accordance with law. The Jurisdictional Assessing Officer is also directed to provide reasonable opportunity of being heard to the assessee. Thus, all the grounds raised by the assessee are allowed for statistical purposes.

5. 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