

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "C" BENCH

**Before: DR. BRR Kumar, Vice President
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No: 1123/Ahd/2023
Assessment Year: 2014-15**

Amod Steel Processors Spun Pipe Compound, Samiala, Padra Road, Vadodara-391410 PAN: AAKFA0941J (Appellant)	Vs	The Deputy Commissioner of Income Tax, Circle-1(3), Vadadora (Now DCIT, Circle1(1)(1)), Vadodara-391410 (Respondent)
---	----	--

**Assessee Represented: Ms. Amrin Pathan, A.R.
Revenue Represented: Shri Rignesh Das, Sr. D.R.**

Date of hearing : 10-12-2024
Date of pronouncement : 12-12-2024

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the exparte appellate order dated 01.11.2023 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the assessment order passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2014-15.

2. Brief facts of the case is that the assessee is a firm engaged in the business of manufacturing of Electrical Lamination Stamping, Magnetic Yoke Assembly and doing job works. For the Asst. Year 2014-15, assessee filed its Return of Income on 27-09-2014 declaring total income of Rs.1,05,75,020/-. The return was taken for scrutiny assessment and Assessing Officer made addition of Rs.26,43,324/- being 25% disallowance of the sundry creditors amounting to Rs.1,05,73,297/- and difference in balance with sundry creditors amounting to Rs.17,50,606/-. The assessee also claimed loss of Rs.2,07,90,851/- on account of flood damages. Since the assessee not substantiated its claim with relevant materials and documents, the Assessing Officer made addition of the same and assessed the total income as Rs.3,57,59,800/-.

3. Aggrieved against the assessment order, assessee filed an appeal before Ld. CIT(A), who had given nine hearings between 12-07-2018 to 31-10-2023. The assessee sought adjournments only on two occasions and failed to comply by filing relevant materials before CIT(A), thereby Ld. CIT(A) confirmed the addition made by the Assessing Officer.

4. Aggrieved against the same, Assessee is in appeal before us raising the following Grounds of Appeal:

Ex-parte Order:

1. The learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ["CIT(A)"] erred in fact and in law in passing an ex-parte order u/s 250 of Income Tax Act, 1961 ("the Act").

2. The learned CIT(A) erred in fact and in law in passing the order without giving proper opportunity of being heard.

3. The learned CIT(A) erred in fact and in law in passing an order in violation of principle of natural justice.

4. The learned CIT(A) erred in fact and in law in confirming the action of the learned Deputy Commissioner of Income Tax, Circle 1(3), Vadodara ("the AO") in assessing total income of the Appellant at Rs. 3,57,59,501 against returned income of Rs. 1,05,75,020,

Sundry Creditors - Adhoc Addition of Rs. 26,43,324/-:

5. The learned CIT(A) erred in fact and in law in confirming the action of the learned AO in making an addition of Rs. 26,43,324/- by treating the balance of sundry creditor as bogus,

6. The learned CIT(A) erred in fact and in law in confirming the action of the learned AO in making addition of Rs. 26,43,324 on adhoc basis,

7. The learned CIT(A) erred in fact and in law in confirming the action of the learned AO in making addition on assumption and presumption.

Difference in Sundry balances - 17,50,606/-:

8. The learned CIT(A) erred in fact and in law in confirming the action of the learned AO in making an addition of Rs. 17,50,606/- to the total income of the Appellant on account of difference in sundry balances.

9 The learned CIT(A) erred in fact and in law in confirming the action of the learned AO in making addition on assumption and presumption.

10 The learned CIT(A) erred in fact and in law in confirming the action of the learned AO in making addition of Rs. 17,50,606 without granting proper opportunity of being heard.

Disallowance of loss by flood-Rs. 2,07,90,851:

11 The learned CIT(A) erred in fact and in law in confirming the action of the learned AO in disallowing loss caused due to flood of Rs. 2,07,90,851/-.

12. The learned CIT(A) erred in fact and in law in confirming the action of the learned AO in disallowing the loss caused due to flood without appreciating the facts on record in proper perspective.

13. The learned CIT(A) erred in fact and in law in confirming the action of the learned AO in disallowing the loss despite the fact that it is business loss and therefore allowable as deduction.

14. The learned CIT(A) erred in fact and in law in confirming the action of the learned AO in disallowing the loss without giving proper opportunity of being heard.

Other Grounds

15. The Ld. AO erred in fact and in law in charging interest u/s. 234B of the Act.

16. The Ld. AO erred in fact and in law in charging interest u/s. 234C of the Act.

17. The learned AO erred in fact and in law in initiating penalty proceedings u/s.271(1)(c) of the Act.

18. Your Appellant craves the right to add to or alter, amend, substitute, delete or modify all or any of the above grounds of appeal.

5. Ld. Counsel appearing for the assessee submitted before us a Paper Book running to 75 pages wherein the replies filed by the assessee during the assessment proceedings namely Statement of Creditors, Outstanding of more than one lakh, details of parties with sales more than one lakh along with ledger account, Job work to sister concerns, Statement of month-wise purchase and sales in terms of quantity and value. Similarly details of materials/goods damaged due to flood and Surveyor Report of SBI General Insurance Company and various other details. Thus Ld. Counsel pleaded the assessee could not attend the hearing notices because of the e-mail address of the accountant who left the job three years ago. Therefore one more opportunity of hearing be given to the assessee to explain its case before Ld. CIT(A).

6. Ld. Sr. D.R. appearing for the Revenue has no serious objection in setting aside the matter back to the file of ld. CIT(A), since the assessee has filed various details in the present Paper Book filed

before this Tribunal. Taking note of the above submissions, the exparte order passed by Ld. CIT(A) is hereby set aside with a direction to Ld. CIT(A) to decide the case on merits after giving proper opportunity of hearing to the assessee and pass order in accordance with the provisions of law.

7. In the result, the appeal filed by the Assessee is allowed for statistical purpose.

Order pronounced in the open court on 12 -12-2024

Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT
Ahmedabad : Dated 12/12/2024

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद