

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, AHMEDABAD**

**BEFORE DR.BRR KUMAR, VICE PRESIDENT
SHRI TR SENTHIL KUMAR, JUDICIAL MEMBER**

I.T.A. No.334/Ahd/2024
(Assessment Year: 2017-18)

Jayanti Polymers Pvt. Ltd., 406 Hemkoot, Opp. Capital Comm Centre, Ashram Road, Ahmedabad-380009.	Vs.	The Income Tax Officer, Ward-2(1)(2), Ahmedabad.
[PAN No.AAACJ4866C]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Tushar Hemani, Sr. Advocate with Shri Parimalsinh B Parmar, AR
Respondent by:	Shri Rignesh Das, Sr. DR

Date of Hearing	12.12.2024
Date of Pronouncement	19.12.2024

ORDER

PER: DR. BRR KUMAR, VICE PRESIDENT:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax(Appeals), National Faceless Appeal Centre, Delhi, vide order dated 28.12.2023 passed for the Assessment Year 2017-18.

2. The Assessee has taken the following grounds of appeal:-

1. *The Ld. CIT(A) has erred in law and on the facts in confirming ex-parte assessment order framed by the Assessing Officer u/s. 144 of the Act.*
2. *The Ld. CIT(A) has erred in law and on facts of the case in not admitting the appeal filed by the Appellant u/s. 249(4)(b) of the Act without appreciating the facts and circumstances of the case.*
3. *The Ld. CIT(A) has erred in law and on facts of the case in dismissing the appeal without adjudicating the grounds of appeal and without entering into merits of the case.*

4. *The Ld. CIT(A) has erred in law and on the facts of the case in upholding the addition of Rs.60,14,250/- as unexplained money u/s. 69A r.w.s. 115BBE of the Act.*
5. *Alternatively, and without prejudice, the addition may kindly be limited to the peak credit amount.*
6. *In any case, invoking provisions of section 69A of the Act which is not at all applicable in the facts of the present case. The Ld. AO has further erred in not appreciating that there is no income chargeable to tax in the case of the Appellant.*
7. *Both the lower authorities have passed the orders without properly appreciating the facts and they further erred in grossly ignoring various submissions, explanations and information submitted by the appellant which ought to have been considered before passing the impugned order. This action of the lower authorities is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.*
8. *The Ld. CIT(A) has erred in law and on facts of the case in confirming action of the Ld. AO in charging interest u/s. 234A/B/C/D of the Act.*
9. *The Ld. CIT(A) has erred in law and on facts of the case in confirming action of the Ld. AO in levying penalty u/s. 271AAC of the Act.*
10. *The Ld. CIT(A) has erred in law and on facts of the case in confirming action of the Ld. AO in levying penalty u/s. 272A(1)(d) of the Act.*
11. *The Ld.CIT(A) has erred in law and on facts on the case in confirming action of the Ld.AO in levying penalty u/s.271F of the Act.*
12. *The Ld.CIT(A) as erred in not considering various facts and in not appreciating the facts and in their proper perspective.*
13. *The appellant craves to add, amend, alter, edit delete, modify or change all or any of the grounds of appeal at the time of or before the hearing of the appeal.*

3. Owing to non-compliance of the assessee to the notices issued, the AO made the addition of Rs.60,14,00/- u/s.69A of the Act in the order u/s.144 of the Act. The assessee filed appeal before the Ld.CIT(A), who summarily dismissed the appeal of the assessee invoking the provisions of section 249(4)(b) of the Act. The provision of section 249 reads as under:

"...(4) No appeal under this Chapter shall be admitted unless at the time of filing of the appeal.-

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(a) where a return has been filed by the assessee, the assessee has paid the tax due on the income returned by him, or

(b) where no return has been filed by the assessee, the assessee has paid an amount equal to the amount of advance tax which was payable by him:

Provided that, in a case falling under clause (b) and on an application made by the appellant in this behalf, the Commissioner (Appeals) may, for any good and sufficient reason to be recorded in writing, exempt him from the operation of the provisions of that clause..."

4. Hence, in view of the clear provisions of the Act and also not adjudicating the issues on merits, the Ld. Counsel for the assessee prayed before us, given an opportunity, due compliance will be made before the Ld. CIT(A). The Ld. DR fairly accepted that the matter should be remanded back to the Ld. CIT(A). Hence, in the interest of justice, the matter is remanded to the Ld. CIT(A) for adjudication of the issue afresh considering the provisions of Section 249(4)(b) and after granting an opportunity of being heard to the assessee. The assessee shall comply with the notices issued by the authorities from time to time without seeking superfluous adjournments.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

This Order pronounced in Open Court on 19.12.2024

Sd/-
(TR SENTHIL KUMAR)
JUDICIAL MEMBER

Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT

(True Copy)

Ahmedabad; Dated 19.12.2024
Manish, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/ Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद/ ITAT, Ahmedabad