

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH
MUMBAI**

**BEFORE: SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
&
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 3804/MUM/2024
(Assessment Year: 2012-13)**

Meenal Trading Pvt. Ltd. 53, Anand Bhavan, Banganga Road, Walkeshwar, Mumbai-400006.	Vs.	ITO-5(2)(3) Central Circle 7(3), Mumbai.
PAN/GIR No. AAFCM7086E		
(Appellant)	..	(Respondent)

Assessee by	Shri. Vimal Punmiya (CA)
Revenue by	Smt. Sanyogita Nagpal (CIT DR)
Date of Hearing	18/12/2024
Date of Pronouncement	20/12/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 10.07.2024 passed in Appeal no. CIT(A), Mumbai-10/10705/2015-16 by the Ld. Commissioner of Income-tax(Appeals)/ National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-Tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment year [A.Y.] 2012-13, wherein learned CIT(A) has dismissed assessee's appeal ex-parte.

2. The brief facts under appeal state that the assessee company e-filed its original return of income on 30.09.2012, declaring total income of Rs. 58,52,718/-. The same was processed u/s. 143(1) of the Act. The assessee has filed revised return of income declaring total income of Rs. 300981/- on 29.03.2013. The case was selected for scrutiny under CASS. Notice u/s. 143(2) of the Act was issued and served upon the assessee. In response to the notice, assessee submitted required details. After considering assessee's submissions learned assessing officer made addition of Rs. 5,75,00,000/- u/s. 68 of the Act as share premium. Aggrieved by the assessment order, assessee preferred an appeal before learned CIT(A) who dismissed assessee's appeal for ex-parte.
3. Assessee is in appeal before this Tribunal on the ground that learned CIT(A) has erred in making aforesaid addition on the ground that the proviso to section 68 was inserted vide Finance Act 2012 w.e.f 01.04.2013 i.e applicable from A.Y. 2013-14 and not in the year under consideration.
4. We have perused the records and heard learned representatives for both the parties.
5. Learned representative for the assessee has submitted that the impugned order has been passed ex-parte. Prayed to set aside the impugned order.
6. Learned DR has supported the impugned order.
7. It transpires from the perusal of the impugned order that learned CIT(A) issued notices to the assessee for hearing on 14/03/2017, 06/02/2018, 18/01/2021, 14/10/2021,

22/11/2021, 19/05/2023, 29/05/2023, 14/02/2024, 20/03/2024, 27/03/2024, 02/05/2024, 22/05/2024 and 25/06/2024 but for no avail. When the learned representative of the assessee was questioned by the bench for such an irresponsible conduct of the assessee before the first appellate authority, assessee's learned representative came out with an offer for the payment of costs of Rs. 5000/- and to provide an opportunity of hearing before learned CIT(A). In the interest of justice and fair play, we find it just and proper to conditionally remit the matter back to the file of learned CIT(A) provided that the assessee makes payment of cost of Rs. 5000/- in the Account of Prime Minister's National Relief Fund. We further direct the assessee to be more diligent and cooperative in attending the hearings and making submissions before the first appellate authority for the expeditious and effective disposal of the appeal. Assessee should refrain from seeking any adjournment except in emergent situation which may be judiciously examined by the first appellate authority. It is made clear that we have not made any observation on the merits of the case. The assessee shall file the copy of the receipt of payment of aforesaid costs on record within one month from the date of this order. The appeal is liable to be allowed accordingly.

8. In the result, the appeal is allowed in above terms for statistical purposes. The impugned order dated 10.07.2024 is

set aside. The appeal is restored back to the file of the learned CIT(A) for statistical purposes.

Order pronounced on 20.12.2024.

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Mumbai; Dated 20/12/2024
Anandi Nambi, *Steno*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai