

**आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH KOLKATA**

**Before Shri Sonjoy Sarma, Judicial Member and Shri Rakesh Mishra, Accountant Member**

**I.T.A. No.1129/Kol/2024**

Assessment Year: 2012-13

**Balhanuman Commodities Pvt. Ltd.....Appellant**

309, B. B. Ganguly Street,

W.B – 700012.

**[PAN: AADCB6195K]**

vs.

**CIT(A), NFAC..... Respondent**

**Appearances by:**

Shri Manish Tiwari, Advocate, appeared on behalf of the appellant.

Shri Somnath Das Biswas, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : December 17, 2024

Date of pronouncing the order : December 23, 2024

**आदेश / ORDER**

**Per Sonjoy Sarma, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 22.03.2024 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. Brief facts of the case are that the assessee filed its return of income for the relevant assessment year by declaring an income of Rs.5590/-. The case of the assessee was selected for scrutiny assessment. The case of the assessee was assessed u/s 144 of the Act and statutory notices were issued to the assessee. But the notices could not be served on the assessee as the business of the assessee had been closed and there was no response to the notices issued. Due to the non-compliance, the Assessing Officer compelled to frame the assessment order u/s 144 of the Act. On the basis of material available on record, the Assessing Officer added a sum of Rs.30,50,000/- representing

sundry creditors treating the same as bogus liabilities. Finally, the assessment order was passed u/s 144 including the addition of Rs.30,50,000/- into the total income of the assessee.

3. Dissatisfied with the above order, the assessee filed an appeal before the ld. CIT(A) but the assessee has failed to appear on three consecutive dates despite serving notices to the assessee. The ld. CIT(A) accordingly passed an order by dismissing the appeal of the assessee by the upholding the order of the Assessing Officer.

4. Aggrieved, the assessee filed the appeal before this Tribunal. Primarily, the ld. AR contended that both assessment order and appellate order are ex parte and the assessee did not get proper opportunity to present its case before the authorities below. He further stated that although notices were issued but they were not received as they were sent to an incorrect email address due to change of contract and information of the assessee and the assessee may be granted a fair opportunity to substantiate its claim.

5. On the other hand, the ld. DR argued that sufficient opportunities have already been provided to the assessee and the assessee failed to respond properly. The order passed by the ld. CIT(A) was justified on account of failure of the assessee to comply with the notices.

6. We, after hearing the rival submission of the parties and perusing the materials available on record, find that both the orders of the Assessing Officer and ld. CIT(A) have provided sufficient opportunity to the assessee but the assessee has failed to respond due to non-receiving of notices sent to the old email address. We further note that the order of the ld. CIT(A) is an ex parte order against the assessee and the ld. CIT(A) had dismissed the appeal without deciding the appeal on merits only on the ground of non-compliance on the part of the assessee. We

find that dismissal of appeal solely on the procedural ground without examining the merits of the case which is essential u/s 250(6) of the Act, is not justified. We deem it fit to provide the assessee one more opportunity to substantiate its case to ensure just and fair assessment. We, therefore, remand back the issue to the file of the ld. CIT(A) with a direction to re-examine the case on merits after giving reasonable opportunity of being heard to the assessee to represent its case. We also direct the assessee to diligently comply with the notices issued and participate sincerely in the proceeding to avoid any delay.

7. In terms of the above, the appeal of the assessee is allowed for statistical purposes.

***Kolkata, the 23<sup>rd</sup> December, 2024.***

Sd/-

**[Rakesh Mishra]**

लेखा सदस्य/Accountant Member

Sd/-

**[Sonjoy Sarma]**

न्यायिक सदस्य/Judicial Member

Dated: 23.12.2024.

RS

*Copy of the order forwarded to:*

1. Balhanuman Commodities Pvt. Ltd
2. CIT(A), NFAC
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches