

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1922/PUN/2024
निर्धारण वर्ष / Assessment Year: 2017-18

Aristo Foils Mfg. Co., W-229, S Block, MIDC, Bhosari, Pune- 411026. PAN : AABFA8946L	Vs.	DCIT, Circle-8, Pune.
Appellant		Respondent

Assessee by : Shri Hanmant Dattatray Dhavle
Revenue by : Shri Ramnath P. Murkunde
Date of hearing : 16.12.2024
Date of pronouncement : 26.12.2024

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 03.01.2024 passed by Ld. Addl./JCIT(A)-12, Delhi ['CIT(A)'] for the assessment year 2017-18.

2. The appellant has raised the following grounds of appeal :-

- "1. On the fact and in the circumstance of the case and in law of the learned Addl/JCIT (A)-12 Delhi has grievously erred in deciding the appeal ex-parte, without providing sufficient opportunity to appellate.*
- 2. On the fact and in the circumstance of the case and in law of the learned Addl/JCIT (A) 12 Delhi has ought to have decided the appeal on merits instead of dismissing the appeal for non-attendance.*

3. *On the fact and in the circumstance of the case and in law of the learned Addl/JCIT (A) 12 Delhi, has erred in disallowing and adding back an amount of Rs.4,85,436/- on account of Depreciation.*
4. *On the fact and in the circumstance of the case and in law of the learned Addl / JCIT (A) 12 Delhi, has erred in disallowing and adding back an amount of Rs.24,635/- on account of Vehicle Insurance.*
5. *On the fact and in the circumstance of the case and in law of the learned Addl / JCIT (A) 12 Delhi, has erred in disallowing and adding back an amount of Rs.33,368/-on account of Vehicle Repairs.*
6. *On the fact and in the circumstance of the case and in law of the learned Addl/JCIT (A) 12 Delhi, has erred in disallowing and adding back an amount of Rs.65,744/- on account of Vehicle RTO Tax.*
7. *On the fact and in the circumstance of the case and in law of the learned Addl / JCIT (A) - 12 Delhi, has erred in disallowing and adding back an amount of Rs.7304/- on account of 43B not disallowed in computation.*
8. *The appellant craves for the leave, add, alter, amend, modify and delete any or all the above grounds of appeals before or at the time of the hearing.”*

3. Facts of the case, in brief, are that the assessee is a partnership firm registered under the name and style of ‘Aristo Foils Mfg. Company’ and is engaged in the business of manufacturing of heavy duty Aluminium Electrolytic Motor Start Capacitors. The assessee filed its return of income on 07.10.2017 declaring total income of Rs.1,51,17,840/-. Subsequently, the assessee revised its return of income on 19.12.2018 declaring total income at Rs.98,92,170/-. The case was selected through CASS for scrutiny and accordingly notices u/s 143(2) and 142(1) were

issued to the assessee. The assessee complied with the said notices. Not being satisfied with the explanation of the assessee, the Assessing Officer proceeded to pass assessment order u/s 143(3) of the IT Act by determining the total income at Rs.1,05,08,657/-, as against the income returned by the assessee at Rs.98,92,170/-. The above assessed income includes the disallowance of expenditure of Rs.6,09,183/- and the disallowance of Rs.7,304/- u/s 43B of the IT Act.

4. Since the assessee remained absent, Ld. Addl./JCIT(A)-12, Delhi dismissed the appeal filed by the assessee. It is this order against which the assessee is in appeal before this Tribunal.

5. Ld. AR appearing from the side of the assessee submitted before us that the *ex-parte* order passed by Ld. Addl./JCIT(A)-12, Delhi is unjustified. It was submitted before the Bench that proper opportunity was not provided to the assessee before passing *ex-parte* first appeal order. Accordingly, it was requested before the Bench that at-least one opportunity may kindly be provided to the assessee to substantiate the grounds of appeal.

6. Ld. DR appearing from the side of the Revenue placed heavy reliance on the orders passed by the subordinate authorities and requested to confirm the same.

7. We have heard Ld. Counsels from both the sides and perused the material available on record. From a perusal of the *ex-parte* first appeal order, we find that Ld. Addl./JCIT(A)-12, Delhi, while passing the *ex-parte* order had not adjudicated the issue raised in appeal on merits as per the provisions of section 250(6) of the IT Act. It is the contention of Ld. Counsels of the assessee that one opportunity may kindly be provided to the assessee to substantiate the grounds of appeal before Ld. Addl./JCIT(A)-12, Delhi. In this regard, we find that although three hearing notices were issued by Ld. Addl./JCIT(A)-12, Delhi but without going into the merits of the case, Ld. Addl./JCIT(A)-12, Delhi decided the appeal *ex-parte* and dismissed the appeal of the assessee which is in violation of provisions of section 250(6) of the IT Act. Under these circumstances and without going into the merits of the case, we deem it appropriate to set-aside the *ex-parte* order passed by Ld. Addl./JCIT(A)-12, Delhi and remand the matter back to him with a direction to decide the appeal afresh as per fact and law after

providing reasonable opportunity of hearing to the assessee. The assessee is also hereby directed to respond to the notices issued by Ld. Addl./JCIT(A)-12, Delhi in this regard and produce the requisite documents/evidences in support of grounds of appeal without taking any adjournment under any pretext, otherwise Ld. Addl./JCIT(A)-12, Delhi shall be at liberty to pass appropriate order as per law. Thus, the grounds of appeal raised by the assessee in this appeal are partly allowed.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on this 26th day of December, 2024.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 26th December, 2024.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Addl./JCIT(A)-12, Delhi.
4. The Pr. CIT/CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.