

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.437/Nag./2024
(Assessment Year : 2013-14)

Ankit Construction
Plot no.30, Staff Irrigation Society
Ring Road, Trimurti Nagar
Nagpur 440 022 PAN – AABFA5924G

..... Appellant

v/s

Dy. Commissioner of Income Tax
Circle-1, Nagpur

..... Respondent

Assessee by : Shri Umesh Agrawal
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 23/01/2025

Date of Order – 28/01/2025

ORDER

PER K.M. ROY, A.M.

The present appeal has been filed by the assessee challenging the impugned order dated 12/06/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [“learned CIT(A)”], for the assessment year 2013-14.

2. In its appeal, the assessee has raised following grounds:-

“1. That the Hon Commissioner of Income Tax Appeal has passed an order u/s 250 of the Act without giving opportunity of being heard to the appellant.

2. That, the order of dismissal of appeal filed by the appellant is without justification and reasons thereon.

3. That, on the facts and circumstances of the case, the Ld. CIT(A) has erred in treating the money advance to its sister concern M/s ECAIPL as non interest bearing loan for non business purposes.

4. That on the facts and circumstances of the case, the Ld. CIT (A) erred in confirming addition of Rs. 1,27,38,785/- as notional interest income on the money advanced to M/s ECAIPL.

5. Any other grounds that may be taken at the time of hearing of the case.”

3. Before us, the learned Authorised Representative, Shri Umang Agrawal, has placed a synopsis of the case which is reproduced below:–

"A. The appellant is a Partnership Firm engaged in the business of Civil Contractorship having registered office at Nagpur.

B. Original Return of Income was filed by the appellant firm wide dated 31/10/2013 declaring total income of Rs. 5,18,95,820/-. Assessment Proceedings u/s 143(3) of the Act was completed in case of the appellant for AY 2013-14 accepting the Return of Income filed by the firm.

C. The case of the appellant was reopened u/s 147 for the reasons that advance was given by the appellant firm to M/s ECA Infrastructure India Pvt Ltd having Opening Balance of Rs. 15,69,00,000/- and closing balance of Rs. 10,35,00,000/- which is shown as loans and advances in the Financial Statements.

D. The firm has duly responded to the notice u/s 148 and filed its return of income. Further compliances were made to notices issues u/s 143(2) and 142(1) of the Act.

E. The appellant firm owns 30% stake in M/s ECA Infrastructure India Pvt Ltd which was formed to obtain Civil Contracts of Government of Maharashtra.

F. The Ld. Assessing Officer has treated business advance made by the appellant firm as a non-business advance and proceeded to calculate interest at 12% on such advance for Rs. 1,27,38,785/-.

G. The Assessment Order u/s 147 was passed wide dated 27/03/2022 assessing the total income at Rs. 6,46,34,610/-.

H. The appellant Firm thereafter filed appeal before the Hon Commissioner of Income Tax - Appeals.

1. Notices for hearing before the CIT-Appeals was issued for hearing on 12/04/2024, 16/05/2024, 22/05/2024 and 03/06/2024 by Hon CIT Appeals, NFAC.

J. The said notices were being sent on old Email ID of the Appellant ie. ankit.construction21@gmail.com whereas the email in use by the appellant is ankit.construction@rediffmail.com. Thus the same went unnoticed by the appellant.

K. The Hon CIT(Appeals), NFAC dismissed the appeal of the appellant for non adherence to the notice of hearing wide dated 12/06/2024."

4. He has invited our attention to Para-6 of the impugned order passed by the learned CIT(A) who has dismissed the appeal by observing as infra.

"6. Decision:

6.1 Appeal has been filed against the order u/s 144/147, dated -27.03.2022, by NGP-C-(1)(1). In pursuance of appeal, this office has issued notices dated 05.04.2024, 16.04.2024, 17.05.2024 and 27.05.2024 wherein the compliance dates were 12.04.2024, 16.05.2024, 22.05.2024 and 03.06.2024.

6.2 It can be seen that assessee has not furnished any reply and has not given any factual or legal details to come to conclusion different from that of AO. LINCOM

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6.3 Even otherwise, it was for assessee to furnish cogent evidence in support of its grounds of appeal. This has not been done. Onus cannot be cast on this office to be an adjudicator and also a lawyer for the assessee when assessee is itself lax and uninterested in pursuing of his own appeal.

6.4 As a result, the appeal is held to be without merit and the same is hence Dismissed."

5. The learned Authorised Representative has explained that there was a sufficient cause for non-appearance. Accordingly, matter is set aside to the file of the learned CIT(A) for denovo adjudication on merits.

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

Order pronounced in the open Court on 28/01/2025

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

NAGPUR, DATED: 28/01/2025

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur