

आयकर अपीलिय अधिकरण, "ए" न्यायपीठ, चेन्नई।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH: CHENNAI

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष  
BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 2296/Chny/2024  
निर्धारण वर्ष /Assessment Years: 2017-18

Asst. Commissioner of Income Tax,  
LTU Circle-1,  
Chennai.

Prudential Sugar Corporation  
Limited,  
Prudential Nagar, Koppedu Post,  
Nindramandal,  
Andhra Pradesh-517587  
[PAN: AAACP4338D]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by

: None

प्रत्यर्थी की ओर से /Revenue by

: Shri Nilay Baran Som, CIT

सुनवाई की तारीख/Date of Hearing

: 07.01.2025

घोषणा की तारीख /Date of Pronouncement

: 07.02.2025

**आदेश / ORDER**

**PER AMITABH SHUKLA, A.M :**

This appeal is filed by the Revenue against the order bearing DIN & Order No.ITBA/NFAC/S/250/2024-25/1064272174(1) dated 22.04.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment years 2017-18. Through the aforesaid appeal the Revenue has challenged order u/s 250 dated 22.04.2024 passed by NFAC, Delhi.

2.0 On the given date of hearing none appeared on behalf of the assessee. The appeal is adjudicated after hearing the Ld. DR and considering the material available on records.

3.0 It is noted that the impugned appeal is delayed by 70 days. The Revenue has submitted that the delay had arisen on account of extreme work pressure of time barring cases and that the delay was neither willful nor wanton. After considering the arguments we are satisfied with the sufficiency of grounds contributing to the delay and consequently proceed to condone the same and adjudicate this appeal.

4.0 At the outset, the Ld. DR informed that the rights of the Revenue of being afforded a reasonable opportunity of being heard have been hit by the action of the Ld. First Appellate Authority in as much as he has violated provisions of Rule 46A. It was submitted that the Ld. First Appellate Authority entertained additional evidences filed by the assessee before him, which were not submitted before the Ld. AO, without affording the Ld.AO an opportunity to examine the same. The Ld. DR informed that in this case the assessee had made claims qua provisions of section 36(1) (va), under section 37 as well as had shown current liabilities of substantial amounts, in respect of which no satisfactory details were filed before the Ld. AO. The Ld. DR further argued that the order of the Ld.First Appellate Authority clearly shows that the assessee had filed detailed submissions and evidences before him which were considered

for deleting the additions giving relief to the assessee. Thus it was argued that the rights of Ld. AO available under rule 46A was violated. A request was accordingly made to remit the file back to the Ld. AO for re-adjudication de novo.

5.0 We have noted that in the present appeal the conduct of the assessee before the Ld. AO has been far from satisfactory. We have also noted that the Ld. First Appellate Authority has entertained evidences which were not filed before the Ld. AO and thus a case of violation of provisions of Rule 46A has been made out. Be that as it may be, we are of the view that the natural rights of Revenue are thus jeopardized. We are therefore of the view that ends of justice would be met if the assessee is given one last opportunity to present its case and file supporting evidences before the Ld.AO. The decision to remit it back to the Ld. AO is taken in view of the fact that an Assessing Officer is the fulcrum of assessment proceedings. He possess the first right and responsibilities to examine facts of a case before arriving at his decision qua determination of taxable income in a particular case. It is evident in this case that the Ld. AO did not have adequate opportunities to examine the varied facts seminal therein. We have noted with respectful deference the decision of Hon'ble Apex Court in the case of TIN box 249 ITR 216 on the subject matter. Accordingly, the case stands remitted back to the Ld. AO for fresh adjudication de novo by passing a speaking

order. To this extent the order of lower authorities stands set aside. The Ld. AO shall give opportunities of being heard to the assessee and it shall be bound upon the assessee to comply with the notices issued by the Ld. AO. Any non-compliance on the part of the assessee can be adversely viewed. The assessee is at liberty to produce all the evidences deemed relevant in support of its claims before the Ld. AO during the re-adjudication proceedings. Accordingly, all the grounds of appeal raised by the Revenue are therefore allowed for statistical purposes.

6.0 In the result, the appeal of the Revenue is allowed for statistical purposes.

Order pronounced on 7<sup>th</sup>, February-2025 at Chennai.

Sd/-

(यस यस विश्वनेत्र रवि)

(SS VISWANETHRA RAVI)

न्यायिक सदस्य / Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 7<sup>th</sup>, February-2025.

KB/-

Sd/-

(श्री अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT - Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF