

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH, CHENNAI
श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस.आर.रघुनथ लेखक सदस्य के समक्ष
BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER
AND SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.314/Chny/2025
(निर्धारण वर्ष / Assessment Year: 2012-13)

M/s.Elango Engineering Pvt.Ltd. 10, Green Fields, Puliakulam Road, Coimbatore-641 045.	Vs	The Deputy Commissioner of Income Tax, Corporate Circle-1, Coimbatore.
PAN : AABCV-8485-C		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Mr. Suraj Nahar, C.A
प्रत्यर्थी की ओर से/Respondent by	:	Ms. D.Komali Krishna,CIT

सुनवाई की तारीख/Date of hearing	:	24.04.2025
घोषणा की तारीख /Date of Pronouncement	:	28.04.2025

आदेश / ORDER

PER MANU KUMAR GIRI, JM:

The captioned appeal filed by the assessee is directed against the order of the Ld. Ld. Commissioner of Income Tax (Appeals) (NFAC) Delhi [CIT(A)] dated 12.11.2024 for Assessment Year 2012-13.

2. Brief facts are as follows:

The assessee (Formerly known as M/s. IRIS Engineering Industries Ltd. and Ravilla Aerospace Industries Ltd) now known as Elango Engineering Private Ltd., had sold its immovable property to M/s.Lakhshmi Machine Works Ltd. for a consideration of Rs.8.52 crores, which was not disclosed in return of income. During the course of survey u/s.133 of the Act based on the material impounded, the case was reopened u/s.147 of the Act by issuing notice u/s.148 of the Act on the ground that there is an escapement of income chargeable to tax in respect of land sold by the assessee

to M/s.Lakshmi Machine Works Ltd. During the course of assessment proceedings, it was noted by the AO that assessee company has received Rs.8.52 crores as sale consideration from M/s.Lakshmi Machine Works Ltd. and computed the long term capital gain at Rs.98,92,494/-. However, the PCIT-1, Coimbatore vide order dated 27.03.2018 u/s.263 of the Act upon review of the case set aside the assessment order to examine the claim of section 54G afresh. Consequently, the AO vide order passed u/s.143(3) r.w.s. 263 of the Act dated 31.12.2018 disallowed the deduction claimed u/s.54G of the Act, as the assessee had ceased its business and there was no continuity in business.

3. Aggrieved, the assessee challenged order of assessment passed u/s.143(3) r.w.s 263 of the Act before the CIT(A). However, the CIT(A) dismissed the appeal ex-parte filed by the assessee. Thus, the assessee is now in appeal before us.

4. We have heard both the parties and perused records. Before us, the Id. Counsel for assessee submitted that assessee has not received notice of hearing and also the CIT(A) has passed an ex-parte order without providing sufficient opportunity of being heard. Therefore, he pleaded that the assessee may be provided an adequate and proper representation time to file evidence and documents, if any, to substantiate his case before the CIT(A). The Id.DR stated that the assessee is habitual defaulter in appearing before the appellate authority hence, no lenient view is to be taken in this case and prayed for dismissal of the appeal.

5. Though, we concur with the submissions of Ld. Sr. DR however, keeping in mind the principle of natural justice and grant

another opportunity of hearing to the assessee. We also find that assessee has not represented before the Id.CIT(A) despite notices for the reasons stated above. Therefore, the impugned order is set aside and the appeal is restored back to the file of CIT(A) for fresh adjudication, after affording proper opportunity of hearing to the assessee, subject to cost of Rs.10,000/- which shall be deposited by the assessee within 30 days from the date of receipt of the order to 'Tamil Nadu State Legal Services Authority' at Hon'ble High Court of Madras. The proof of the cost deposit will be furnished by the Assessee before CIT(A). The assessee is directed to substantiate its case with all evidence and documents, if any, forthwith without any fail, failing which Id. CIT(A) shall be at liberty to proceed with proceedings on merits as per law. The Id. counsel, who appeared also assured the bench that he will ensure that the assessee will prosecute the case diligently.

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

Order pronounced in the open court on 28th April, 2025

Sd/-
(एस .आर.रघुनाथा)
(S.R.Raghunatha)
लेखा सदस्य / Accountant Member

Sd/-
(मनु कुमार गिरि)
(Manu Kumar Giri)
न्यायिक सदस्य/ Judicial Member

चेन्नई/Chennai,
दिनांक/Date:28.04.2025
DS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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