

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCHES : G : NEW DELHI

BEFORE SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER

AND

SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER

ITA No.6108/Del/2024

Assessment Year: 2016-17

SCJ Plastics P. Ltd.,  
F-3/10-11, Okhla Industrial Area,  
Phase-1, Delhi 110020

Vs CIT(A), NFAC,  
Delhi.

PAN: AAACS1107P

Assessee by : S/Shri Gagan Kumar & Gagan Deep, Advocates

Revenue by : Shri Sanjay Sharma, Sr. DR

Date of Hearing : 13.05.2025

Date of Pronouncement : 14.05.2025

ORDER

PER SUNIL KUMAR SINGH, JM:

This appeal has been preferred against the impugned order dated 17.10.2023 passed in Appeal no. CIT(A), Delhi-8/10348/2018-19 by the Ld. Commissioner of Income-tax(Appeals)/National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"], u/s. 250 of the Income-tax Act, 1961

[hereinafter referred to as "Act"] for the Assessment Year [A.Y.] 2016-17, wherein learned CIT(A) has partly allowed assessee's appeal ex-parte.

2. The brief facts under appeal state that the assessee is engaged in the business of manufacturing industries and e-filed its return of income for A.Y. 2016-17 on 17.10.2016, declaring total income of Rs.5,20,35,660/-. Later on the return was revised on 14.12.2016 declaring total income of Rs.5,24,76,730/-. Revenue found on the perusal of note sheet, that the assessee company had shown an amount of Rs.8,06,50,341/- as sundry creditors. Statutory notice u/s. 142(1) of the Act was issued and served upon the assessee. On the basis of information submitted by the assessee company, notices u/s. 133(6) of the Act were issued to the sundry creditors on 14.12.2018. Ten such sundry creditors did not respond with respect to the total amount of Rs.4,07,43,366/-. It was further noticed by the Id. AO that there was difference of Rs.32,51,209/- in the amount furnished by the assessee company and responded by the sundry creditors. Assessing Officer, thus added Rs.4,39,94,575/- in the total income of the assessee.

3. Aggrieved by the assessment order dated 26.12.2018, assessee preferred an appeal before learned CIT(A), who partly allowed assessee's first appeal, confirming the addition of Rs.4,07,43,366/-, however directed

Assessing Officer to verify the difference amount as furnished by the assessee company with respect to the Bajaj Rubber Company P. Ltd.

4. Assessee has filed this second appeal on the ground that learned CIT(A) has erred in confirming the said addition without providing reasonable and sufficient opportunity of hearing to the assessee.

5. We have perused the records and heard learned representative for the assessee and Id. DR for the Revenue.

6. At the very outset Id. Representative of the assessee has submitted that this appeal was filed on 28.12.2024 against the impugned order dated 17.10.2023 by a delay of about 377 days. It has been argued that the appeal before Id. CIT(A) was filed on 22.01.2019 and the proceedings were being looked after by assessee's employee Shri Girish Chand Jain, who passed away on 21.01.2022 due to heart attack. The management of the assessee was not aware of the subsequent notices dated 08.06.2023, 15.06.2023 and 15.09.2023 that led Id. CIT(A) to pass ex-parte impugned order. The delay caused in filing the appeal is *bonafide* and prayed to condone the same. Id. Representative for the assessee has further submitted that Id. CIT(A) has passed non speaking ex-parte impugned order in violation of the principles of natural justice, prayed to set aside the impugned order and afford an opportunity to the assessee to make submissions before the Id. CIT(A).

7. Learned DR has supported impugned order.
8. The delay condonation prayer supported by an affidavit filed on behalf of Shri Rahul Jain, managing Director of assessee company is un-rebutted on record, hence, in the interest of justice we treat the facts mentioned in the delay condonation application as sufficient and condone the delay.
9. After perusal of impugned order, we notice that the assessee was afforded six opportunities of hearing on 06.09.2019, 24.03.2020, 12.01.2021, 14.06.2023, 20.06.2023 and 22.09.2023, however, the assessee did not appear before the First Appellate Authority to make its submissions. Non responsive conduct of the assessee cannot be appreciated. However, we find that no substantive reasons have been assigned in the impugned order. There is no due or proper application of mind or any critical analysis or objective consideration in the matter. It is well settled in law that the reason is the life of law. It is that filament that injects soul to the order. Absence of analysis not only evinces non application of mind but also mummifies the core spirit of the order. Learned CIT(A) was expected to state the points for determination, decision thereon and the reasons for the decision as provided u/s. 250(6) of the Act. In the circumstances and in the interest of justice and fair play, we deem it just and appropriate to remit the matter back to the file of learned CIT(A) for adjudication on merits and to pass speaking order. We order

accordingly. We direct the assessee to be diligent and cooperative in attending the hearings and making submissions before the learned CIT(A) for the expeditious and effective disposal. Needless to say, that learned CIT(A) shall ensure the observance of the principles of natural justice. It is made clear that we have not made any observation in respect of the merits of the case. The appeal is liable to be allowed.

10. In the result, the appeal is allowed for statistical purpose. Impugned order dated 17.10.2023 is set aside.

Order pronounced in the open court on 14.05.2025.

Sd/-  
(BRAJESH KUMAR SINGH)  
ACCOUNTANT MEMBER

Sd/-  
(SUNIL KUMAR SINGH)  
JUDICIAL MEMBER

Dated: 14<sup>th</sup> May, 2025.

NV

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi