

IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD “B” BENCH: HYDERABAD

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT  
AND  
SHRI MANJUNATHA G, ACCOUNTANT MEMBER

ITA.Nos.247 to 252/Hyd./2025  
Assessment Years 2015-2016 & 2017-2018

Lova Impex Private Limited, Hyderabad PIN – 500 026. Telangana. PAN AABFL2747E	vs.	The Income Tax Officer, Ward-15(1), Hyderabad.
(Appellant)		(Respondent)

For Assessee :	CA C Suresh
For Revenue :	Dr. Sachin Kumar, Sr. AR

Date of Hearing :	14.05.2025
Date of Pronouncement :	19.05.2025

**ORDER**

**PER BENCH :**

The above batch of six appeals are filed by the assessee viz., Lova Impex Private Limited, Hyderabad, against the respective orders all dated 28.01.2025 of the learned CIT(A)-National Faceless Appeal Centre [in short the “NFAC”] Delhi, relating to the assessment years 2015-2016 and 2017-2018.

2. Briefly stated facts of the case are that, the appellant company is a Private Limited Company regularly assessed to income tax under PAN AAACL8515G. The appellant company is engaged in the business of import and export of cashew nuts and coffee beans, UPVC Profiles etc., and was incorporated on 27.02.2001. The appellant company has taken IEC Code number on 08.03.2001 on the basis of PAN AABFL2747E. The appellant company had also filed its return of income right from assessment year 2001-2002 to up-to assessment year 2006-2007 under PAN AABFL2747E. Thereafter, the appellant company was informed that the PAN AABFL2747E allotted by the Income Tax Department had been wrongly allotted under the 'Firm' category and accordingly, the appellant company has surrendered the old PAN AABFL2747E and has obtained new PAN card with PAN AAACL8515G. Since then, the appellant company has filed its return of income right from 2007-2008 under the new PAN AAACL8515G and all its assessments have been done under the new PAN in the category of 'Company'.

3. Subsequently, the case of the appellant company for the assessment year 2016-2017 has been reopened u/sec.148A of the Income Tax Act, 1961 [in short “the Act”] on the ground that information on record for the financial year 2015-2016 relevant to assessment year 2016-2017 reveals that, the appellant company made bill of entry for imports for assessable value of Rs.1,49,88,139/- and accordingly, notice u/sec.148A(b) of the Act dated 27.02.2023 was issued to the appellant company. The appellant company has furnished reply to the notice and stated that it is in the business of import and export of cashew nuts and coffee beans, UPVC Profiles etc., and it has been wrongly allotted PAN status of ‘Firm’ and the same has been reported to the DGFT for allotment of IEC Code. Further, the wrong PAN has been subsequently surrendered and new PAN has been obtained in the status of ‘Company’ and since then, the appellant company is filing its return of income under new PAN. The Assessing Officer after verification of relevant facts, has dropped the notice issued u/sec.148A of the Act on the ground that it is not a fit case

to issue notice for reopening of the assessment. Further, during the proceedings before the Assessing Officer in respect of assessment year 2016-2017, the Assessing Officer pointed-out to the appellant company that in respect of assessment years 2015-2016 and 2017-2018, there was substantial tax arrear demand under PAN AABFL2747E. The appellant company had taken steps to ascertain the details of demand created under Old PAN by filing a letter to the Department for issuance of relevant credentials for logging into Department's portal and after much correspondence with the Department, the appellant company has received an email on 29.06.2023 providing the logging credentials to access PAN AABFL2747E. Thereafter, the appellant company logged into the portal and has got assessed in respect of assessment years 2015-2016 and 2017-2018 vide assessment order passed u/sec.147 r.w.s.144 of the Income Tax Act, 1961 dated 29.06.2023. Thereafter, the appellant company has taken steps to file appeal against the assessment order and in the process of consultations with professionals, it lost sufficient time due

to pre-occupation of business and also ill-health of the consultant to advice the appellant company. Finally, the appellant company has filed the appeal on 24.01.2024 before the First Appellate Authority, with a delay of 585 days. Further, the learned CIT(A) without considering the explanation furnished by the appellant company for the delay in filing the appeal, has dismissed the appeal filed by the appellant company *in limine* for not filing the appeal on or before the due date.

4. CA C Suresh, learned Counsel for the Assessee, explaining the sequence of events and reasons for obtaining incorrect PAN in the status of 'Firm' submitted that, due to inadvertent error wrong PAN has been allotted to the appellant company and the same has been continued up-to assessment year 2006-2007. However, from the assessment year 2007-2008, the appellant company has taken correct PAN and has filed it's return of income under new PAN. The return of income filed by the appellant company has been assessed and assessment order has been passed u/sec.143(3) for the assessment years 2015-2016 and

2017-2018. However, because of reporting requirement from the DGFT, the Authorities have reported import of goods under old PAN for the assessment years 2015-2016 and 2017-2018 which was not noticed by the appellant company. The Department has reopened the assessment and since the appellant company has not responded to the notice, an ex-parte assessment order was passed for both the assessment years and made additions towards transactions reported by the DGFT. Further, the appellant company was not having knowledge of the assessment order passed by the Assessing Officer and only after persuasion with the Department and after obtaining credentials, the appellant company has taken steps to file appeal before the learned CIT(A)/First Appellate Authority, which resulted in delay of 585 days. Further, the said delay is neither intentional nor wanton or for any undue benefit, but, beyond the control of the appellant company. Therefore, he submitted that, the delay in filing of the appeal before the learned CIT(A) should be condoned and the matter may be remanded back to the file of jurisdictional Assessing Officer

to verify the transactions reported under old PAN in light of books of accounts maintained by the appellant company for both the assessment years and in case, the Assessing Officer found that the transactions reported under old PAN is already accounted by the appellant company in the books of accounts, then, a direction may be given to the Assessing Officer to delete the addition made for both the assessment years.

5. Dr. Sachin Kumar, learned Sr. AR on the other hand, supporting the order of the learned CIT(A) submitted that, the reasons given by the appellant company for delay in filing of the appeal before the First Appellate Authority does not come under 'reasonable cause' for condoning huge delay in filing of the appeal. Further, the appellant company claims that due to mistakes in allotment of PAN, there are two PANs existing in the name of Company i.e., one in the status of 'Firm' and another in the status of 'Company'. The appellant company claims that it has reported transactions under new PAN in the status of 'Company'. However, facts with regard to transactions carried-out by the appellant

company for import of goods is not verified by the Assessing Officer. Therefore, he submitted that, the matter may be remanded back to the Assessing Officer for verification of the claim of appellant company with relevant evidences and to decide the issue in accordance with law.

6. We have heard both the parties, perused the material on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that, the appellant company has been allotted PAN AABFL2747E in the status of 'Firm', although, the appellant company is a Private Limited Company incorporated under the Companies Act, 1956. It is also not in dispute that, the appellant company has surrendered the old PAN and has obtained the new PAN from assessment year 2007-2008 which is evident from PAN card issued by the Department by new PAN AAACL8515G. Further, it is also not in dispute that, the appellant company has filed its return of income right from assessment year 2007-2008 under new PAN in the status of 'Company' and the Department has assessed the appellant as a company, which is evident from the

assessment order passed by the Assessing Officer for the assessment years 2015-2016 and 2017-2018 where the Assessing Officer has assessed the appellant company in the status of a 'Company' under PAN AAACL8515G. Therefore, the impugned assessment order passed by the Assessing Officer under old PAN AABFL2747E needs to be examined in light of facts brought on record to ascertain whether it is duplicate assessment or the transactions reported in the said PAN recorded in the regular books of accounts of the appellant company reported in the relevant bank statement filed for the assessment years 2015-2016 and 2017-2018. Going by the evidences placed on record, including relevant assessment order passed by the Assessing Officer for the assessment year 2016-2017 u/sec.148A(d) of the Act dated 30.03.2023, it is an undisputed fact that, there are two Pan nos. in the name of the appellant company i.e., one in the status of 'Firm' and the other in the status of 'Company'. The Assessing Officer after considering the relevant facts and also evidences placed by the appellant company has accepted the fact that,

there is a duplicate PAN in the status of 'Firm' and transactions reported in the old PAN no. are already considered by the appellant company in the new PAN and, therefore, there is no need of fresh assessment. A similar order has been passed for the assessment year 2018-2019 where the Assessing Officer has accepted the argument of the appellant company in light of two PAN nos. and passed Rs.NIL assessment order without making any additions towards transactions reported under old PAN. From the above, it is undisputedly clear that, there are two PAN numbers in the name of the appellant company i.e., one in the status of 'Firm' which is still active and the other in the status of 'Company', which the assessee appellant company has been using for filing its return of income. We do not know, whether it is the mistake of the appellant company or the Department. Although, the appellant company claims that, the Department mistakenly allotted PAN in the status of 'Firm' and the appellant company has surrendered the said PAN, but, the fact remains that the old PAN is still active. In fact, the Counsel for the Assessee himself

admitted the fact that, the appellant company has not carried-out relevant amendments to import and export Code nos. allotted by the DGFT by incorporating new PAN. Since the appellant company has not carried-out relevant amendments by incorporating new PAN in IEC Code, the DGFT has reported import and export transactions under old PAN to the Income Tax Department. The Department on the basis of information received from the DGFT has issued notice to the appellant company u/sec.148A of the Act, but, the assessee neither responded nor filed any details. Therefore, the Assessing Officer has passed the best judgment assessment order u/sec.144 r.w.s.143(3) of the Income Tax Act, 1961 for both the assessment years and made additions towards transactions reported by the DGFT. Since the appellant company has already filed return of income under new PAN AAACL8515G for both the assessment years and further for both the assessment years, the Department has passed assessment orders u/sec.143(3) of the Income Tax Act, 1961, under new PAN, in our considered view, the assessment order passed by the

Assessing Officer u/sec.147 r.w.s.144 of the Act in old PAN for both the assessment years cannot survive, provided, the transactions reported by the DGFT in old PAN are already considered and accounted by the appellant company in their books of accounts. Since the appellant company was not aware of the proceedings initiated by the Department u/sec.148A of the Act and it came to know only during the proceedings for the assessment year 2016-2017 before the Assessing Officer, in our considered view, the delay in filing of the appeal before the learned CIT(A) needs to be condoned for both the assessment years because, there is 'sufficient and reasonable cause' for the appellant company for not filing the appeals on or before the "due date" provided under the Act. Thus, we condone the delay in filing of the appeals before the learned CIT(A) for both the assessment years. Further, since there are two PAN nos. in the name of the appellant company, in our considered view, the matter needs to be verified by the jurisdictional Assessing Officer in light of our discussion hereinabove to ascertain the fact with regard to the transactions reported by the DGFT under old

PAN, whether the said transactions are already accounted by the appellant company in their books of accounts or not ? Thus, we set aside the order of the learned CIT(A) for both the assessment years and restore the issue to the file of jurisdictional Assessing Officer for further verification. The Assessing Officer is directed to verify the issue in light of our discussion hereinabove and also any other evidences that may be filed by the appellant company to substantiate it's case.

7. In the result, ITA.Nos.247/Hyd./2025 and 250/Hyd./2025 for the assessment years 2015-2016 and 2017-2018 are allowed for statistical purposes

ITA.Nos. 248 and 249/Hyd./2025 – A.Ys. 2015-2016 :  
ITA.Nos.251 and 252/Hyd./2025 – A.Ys. 2017-2018 :

8. The above four appeals are filed by the appellant company against the order passed by the learned CIT(A) confirming penalty levied by the Assessing Officer u/sec.271B and 271(1)(c) of the Income Tax Act, 1961 which are consequential to the assessment order passed by

the Assessing Officer for both the assessment years. Since, we set-aside the order of the learned CIT(A) and remitted the matter back to the file of Assessing Officer for further verification in the quantum appeals for the assessment years 2015-2016 and 2017-2018 (supra), in our considered view, penalty levied by the Assessing Officer u/sec.271B and 271(1)(c) of the Act cannot survive for the impugned assessment years 2015-2016 and 2017-2018 in the present four appeals. Thus, we set-aside the orders passed by the learned CIT(A) for both the assessment years confirming the penalty levied by the Assessing Officer u/sec.271B and 271(1)(c) of the Act to the file of Assessing Officer for re-consideration of the issue, after considering the issue of re-assessment order passed by the Assessing Officer u/sec.144 r.w.s.147 of the Income Tax Act, 1961.

9. In the result, all the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 19.05.2025

Sd/-  
[VIJAY PAL RAO]  
VICE PRESIDENT

Sd/-  
[MANJUNATHA G]  
ACCOUNTANT MEMBER

Hyderabad, Dated 19<sup>th</sup> May, 2025

VBP

Copy to

1.	Lova Impex Private Limited, 10-2-111/2, Road No.2, Marredpally, Nehru Nagar, Hyderabad – 500 026.
2.	The Income Tax Officer, IT Towers, AC Guards, Masab Tank, Hyderabad – 500 028.
3.	The Pr. CIT, Central Hyderabad
4.	The DR ITAT “B” Bench, Hyderabad.
5.	Guard File.

//By Order//

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