

IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH "B", HYDERABAD

BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
AND  
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

ITA No.2027/Hyd/2018		
Assessment Year: 2014-15		
Asha Analytical Instruments (P) Ltd, Secunderabad. PAN: AAICA 6505 D	Vs.	Income Tax Officer, Ward-1(2), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Shri P.N. Moorthy	
Revenue by:	Shri Rohit Mujumdar, DR	
Date of hearing:	24/03/2021	
Date of pronouncement:	01/07/2021	

ORDER

PER A. MOHAN ALANKAMONY, AM.:

This appeal is filed by the assessee against the order of the ld. CIT(A)-1, Hyderabad in appeal no. 0281/CIT(A)-1/Hyd/2016-17/2018-19, dated 22/6/2018 passed U/s. 144 r.w.s 250(6) of the Act for the AY 2014-15.

2. The assessee has raised four grounds in its appeal and they are extracted herein below for reference:-

- “1. That the Ld. CIT (A) is not justified by confirming the amount of Rs. 2,83,92,066/- as unexplained cash credit U/s. 68 of the IT Act, 1961, as it was held by the AO in order U/s. 144 dated 31/12/2016.

2. *That the said amount of Rs. 2,83,92,066/- was being the amount received by the appellant company through RTGS and NEFT and deposited in various banks held by the appellant company from M/s. Megsan Labs Pvt Ltd through Bank of India account held by it for supply of various kinds analytical instruments.*
3. *That the Ld. AO was not justified making a separate addition of Rs. 11,42,414/- out of Rs. 22,84,829/- under various heads of expenditure being they were incidental to the business carried out by the appellant as against the turnover of Rs. 3,08,81,294/- and confirmed by CIT (A) is erroneous.*
4. *Prayer: It is prayed before the Hon'ble Bench of the ITAT that the appellant may please be allowed to submit additional evidence under Rule 29 of the ITAT Rules, 1963, in support of the above grounds as bank accounts were not readily available at the stage of assessment and appeal proceeding. Since the operations of the appellant company ceased to function for more than two years, it unable to submit any records during the assessment / appeal stage to substantiate its claim."*

3. At the outset, the Ld. AR submitted before me that there is a delay of 39 days in filing the appeal before the Tribunal. In this regard, the assessee had submitted a petition for condonation of delay wherein the reasons for filing the appeal beyond the prescribed time limit was explained. For reference, the relevant portion from the affidavit is extracted herein below: -

“.....

2. *That the order of CIT (A)-1, Hyderabad dated 22/096/2018, in fact is shown as if it is served 2/7/2018. Whereas the said appellate order was not received by the appellant company along with original demand notice at the address mentioned in the appellate order because of the premises being closed and the copy of the same is obtained by my current Chartered Accountant Mr. Muneer Ahmed on request; from the CIT (A)-1, On 28/09/2018.*

3. *It is a fact that the appellant company ought to have submitted the appeal on or before 30/08/2018 (ie within 60 days from the date of service dated 2/7/2018)*

4. *It is also a fact as stated above that after taking a copy of the CIT (A) order dated 22/06/2018, on 28/09/2018 the appellant is preferring this appeal on this day of 09/10/2018. There is a delay of 39 days taking into consideration the date of service as 02/07/2018.*

5. *It is also a fact that when it was inquired with Sri A. Srinivas who represented at the 1<sup>st</sup> appeal stage, he stated that he has not received any copy of the CIT (A) order by him.*

6. *In the light of the above unavoidable circumstances and on facts, it is prayed your honour that the delay of 39 days may please be condoned, as the delay was caused beyond the control of the appellant company, otherwise the appellant company will be put to heavy tax burden so also it will be on its directors.”*

4. On perusal of the affidavit filed by the assessee's Counsel, We find that the delay of 39 days in filing of the assessee's appeal before the Tribunal has occurred because the assessee did not receive the CIT (A) order as there was change in the address of the assessee company and only after obtaining the CIT (A) order by the Learned Counsel of the assessee, the present appeal was filed before the Tribunal. Hence, we are of the view that there is a reasonable cause for filing the appeal beyond the prescribed time limit. Therefore, in the interest of Justice we hereby condone the delay of 39 days in filing the appeal and proceed to adjudicate the matter on merits.

5. The brief facts of the case are that the assessee is a private limited company engaged in the business of manufacturing medical equipment filed its return of income for the Ay 2014-15 on 10/03/2015 admitting total income of Rs. 6,89,440/-. Thereafter, the case was taken up for scrutiny and assessment was completed on 31/12/2016 U/s. 144 of the Act because of non-appearance. The ld. AO had made an addition of Rs. 2,83,92,066/- because the assessee did not explain and prove the

genuineness and creditworthiness of the loans and advances received. Even before the Ld. CIT (A) the assessee failed to substantiate his claim therefore the ld. CIT (A) confirmed the order of the Ld. AO on the issue. The Ld. AO had also disallowed expenditure of Rs. 11,42,414/- for lack of supporting evidence which was also confirmed by the Ld. CIT (A) for the same reasons.

6. At the outset, the Ld. AR requested the Bench to admit the additional evidence filed by the assessee under Rule 29 of the ITAT Rules, 1963 and pleaded to remit back the matter to the file of the Ld. AO for denovo consideration. It was further submitted that the assessee company had ceased to function for more than two years and therefore, it was unable to submit the requisite documents at the time of hearing before the ld. Revenue Authorities. The Ld. DR on the other hand vehemently opposed to the submission of the ld. AR and requested for confirming the order of the ld. CIT (A).

7. We have heard the rival submissions and carefully perused the materials on record. From the facts of the case, it appears that the assessee company is a defunct company grasping for survival. Therefore, considering the plight of the assessee sympathetically and in the interest of justice we hereby remit the entire matter back to the file of the Ld. AO for denovo consideration granting liberty to the assessee to file any evidence to substantiate its case. At the same breath, We also

hereby caution the assessee to promptly co-operate before the Ld. Revenue Authorities in their proceedings failing which the Ld. Revenue Authorities shall be at liberty to pass appropriate orders in accordance with law and merits based on the materials on the record. It is ordered accordingly.

8. In the result, appeal filed by the assessee is allowed for statistical purposes as indicated hereinabove.

9. Before parting, it is worthwhile to mention that this order is pronounced after 90 days of hearing the appeal, which is though against the usual norms, we find it appropriate, taking into consideration of the extra-ordinary situation in the light of the lock-down due to Covid-19 pandemic. While doing so, we have relied in the decision of Mumbai Bench of the Tribunal in the case of DCIT vs. JSW Ltd. In ITA No.6264/M/2018 and 6103/M/2018 for AY 2013-14 order dated 14th May 2020.

Pronounced in the open Court on the 01<sup>st</sup> July, 2021.

Sd/-  
(P. MADHAVI DEVI)  
JUDICIAL MEMBER

Sd/-  
(A. MOHAN ALANKAMONY)  
ACCOUNTANT MEMBER

Hyderabad, Dated: 01<sup>st</sup> July, 2021

OKK

Copy to:-

- 1) Asha Analytical Instruments (P) Ltd., P.N. Moorthy, 1-8-518/16, Chikkadapally, Hyderabad – 20.
- 2) Income Tax Officer, Ward-1(2), Hyderabad.
- 3) The CIT (A)-1, Hyderabad.
- 4) The Pr. CIT-1, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File