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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ ITA 525/2023

SEEMAX TECHNOLOGIES PRIVATE LIMITED ..... Appellant

Through: Ms. Rachna Agrawal, Adv.

versus

INCOME TAX APPELLATE TRIBUNAL & ORS ..... Respondents

Through: Mr. Sunil Agarwal, SSC with Mr. Shivansh Pandya, JSC and Mr. Utkarsh Tiwari, Adv.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **05.03.2024**

1. The assessee impugns the order dated 10 May 2023 passed by the Income Tax Appellate Tribunal ["**ITAT**"] and has sought to assail the procedure as adopted by the respondents principally based on the provisions comprised in Section 144 of the Income Tax Act, 1961 ["**Act**"].

2. The Assessing Officer ["**AO**"] had taken the position that since the assessee-appellant had failed to comply with various notices that had been issued, it was thus left with no other option but to proceed ex parte and frame a best judgment assessment in accordance with Section 144 of the Act. The record would reflect that in the Remand Report which had been submitted for the consideration of the Commissioner of Income Tax (Appeals) ["**CIT(A)**"], the AO had clearly accepted the filing of returns for previous years and thus this was not a case where the assessee was a "non-filer".

3. We note that insofar as the various notices are concerned, in the comments which were provided to the CIT(A), the AO had provided the following details:-

S.no.	**Details of notice issued and response of the assessee**	**Date of issue ofnotice/receiving the response**	**Case fixed for (date)**	**Status compliance**
1	Notice u/s 143(2) and 142(1)	15-09-2014	22-09-2014	None attended
2	Notice u/s 143(2) issued to the company through directors	23-09-2014	29-09-2014	None attended
3	Mail received from assessee	-	26-09-2014	Mail was received from assessee for adjournment
4	142(1) along with questionnaire	27-10-2014	10-11-2014	None attended
5	Assessee has filed submissions	11-11-2014		
6	Notice u/s 142(1) issued	15-12-2014	19-12-2014	None attended
7	Assessee attended the proceedings and asked to file ceratin details, the case adjourn for 05-01-2015	02-01-2015	05-01-2015	None attended
6	Assessee attended the proceedings and filed details partly, case adjourn for 09-01-2015 for filing of balance details.	06-01-2015		
7	09-01-2015			None attended
8	Submissions	15-01-2015		

	received from assessee			
8	Notice u/s 142(1)	12-02-2015	20-02-2015	None attended
9	Show cause notice for levy of penalty u/s 271(1)(b)	26-02-2015	03-03-2015	None attended
10	Penalty for Rs. 10000/- imposed u/s 271(1)(b)	10-03-2015		
9	Show cause notice u/s 142(1) issued for making additions.	13-03-2015	Fixed for 17-03-2015 at 10.30 AM.	None attended
10	Assessee has filed submissions	17-03-2015 At 5.00 PM		

4. As would be evident from the aforesaid disclosures, the appellant-assessee thus appears to have submitted its responses to the notices issued under Section 143 as also to the show cause notice under Section 142(1), in terms of which various additions were sought to be made.

5. In view of the aforesaid, we are of the considered opinion that the ends of justice would warrant the matter being remitted to the file of the AO for framing an order of assessment afresh and in accordance with law in respect of additions of INR 45,00,000/- made by invoking Sections 68 and 144 of the Act.

6. We accordingly set aside the order of the ITAT dated 10 May 2023 and remit the matter to the AO for taking further steps for concluding the assessment for the year in question, i.e., Assessment Year ["**AY**"] 2012-13 in respect of the aforesaid addition of INR

45,00,000. We also direct the appellant to provide all requisite postal as well as email particulars to the AO, so as to enable him to place the assessee on due notice. The aforesaid particulars be provided to the AO within a period of two weeks from today, whereafter the assessment may be commenced afresh.

7. The appeal shall consequently stand disposed of on the aforesaid terms.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MARCH 5, 2024/*neha*