

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'SMC' BENCH,  
NEW DELHI [THROUGH VIDEO CONFERENCE]

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA No. 235/DEL/2020  
[Assessment Year: 2001-02]

Usha Ispat Ltd  
B-11/100, Mohan Cooperative  
Industrial Estate, Badarpur  
New Delhi

Vs.

The I.T.O  
Ward - 43(2)  
New Delhi

PAN: AAACU 1007 G

[Appellant]

[Respondent]

Date of Hearing : 13.09.2021

Date of Pronouncement : 13.09.2021

Assessee by : None

Revenue by : Shri R.K. Gupta, Sr. DR

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:**

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals] - 27, New Delhi dated 25.11.2019 pertaining to assessment year 2001-02.

2. The solitary grievance of the assessee reads as under:

"The assessee has not been given proper opportunity to present the facts of the case. The addition of Rs. 12.06.280 is made without any basis or justification as no claim of expenditure has been made by the assessee. The CIT(A) has misunderstood the facts of the Balance Sheet as on 31.03.2002 which had detail of expenses as on 31.03.2001 and no expense on freight and forwarding has been claimed in that. The order is illegal and against facts of the case and bad at law. An assessment u/s 144 of the I T. Act. 1961 is illegal and basic facts on record have been completely ignored. The addition of Rs. 12.06.280 is arbitrary and without any legal base and deserves to be deleted."

3. As can be seen from the grounds of appeal, the Assessing Officer framed ex-parte order stating at para 4 of his order that since the assessment was getting barred by limitation, the Assessing Officer had no alternative but to finalise the assessment proceedings u/s 144 of the Income tax Act, 1961 [hereinafter referred to as 'The Act' for short] by making addition on account of disallowance out of purchase and freight and forward expenses on prorata basis.

4. The ld. CIT(A), without going into the merits, upheld the ex-parte assessment order.

5. In the grounds of appeal, the assessee has contended that the ld. CIT(A) has misunderstood the facts of the balance sheet as on 31.03.2002, as on 31.03.2001, no expenses of freight and forwarding has been claimed.

6. In my considered view, this contention of the assessee goes to the root of the matter. Therefore, in the interest of justice and fair play, I restore this issue to the file of the Assessing Officer with a direction to examine the issue afresh after giving reasonable opportunity of being heard to the assessee. The assessee is directed to furnish necessary documentary evidences in support of its claim.

7. In the result, the appeal filed by the assessee in ITA No. 235/DEL/2020 is allowed for statistical purposes.

The order is pronounced in the open court on 13.09.2021.

Sd/-

[N.K. BILLAIYA]  
ACCOUNTANT MEMBER

Dated: 13<sup>th</sup> September, 2021.

VL/

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	