IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Before Shri SHAMIM YAHYA, ACCOUNTANT MEMBER

I.T.A. No.1836/Mum/2021
(Assessment Year 2010-11)

Bhavya Projects Pvt.Ltd. Akruti Trade Centre 6th Floor, Marol MIDC, Andheri(E) Mumbai-400 093 PAN : AACCB5080G	Vs.	DCIT,CC-36 Aaykar Bhawan M.K.Road Mumbai-400 020
(Appellant)		(Respondent)

Assessee by	None
Department by	Ms. Usha Shrote
Date of Hearing	07.04.2022
Date of Pronouncement	08 .04.2022

O R D E R

Per Shamim Yahya (AM) :-

This appeal by the assessee is directed against the order of learned Commissioner of Income Tax (Appeals)-53, dated 23.10.2017 and pertains to assessment year 2010-11.

2. Grounds of appeal read as under:-

1. Under the facts and circumstances of the case and in law, the Learned Commissioner of Income Tax (Appeals), erred in upholding the Assessment u/s 144 of the Income Tax Act,1961 without appreciating the fact that the books of accounts were duly audited by practicing Chartered Accountant and the time given to the Appellant for gathering, compiling and submitting the details asked was extremely short knowing fully well that the Company had stopped Operation on 31.03.2012 and there was no employee on day to day basis to look into the affairs of the company and last notice being Dated 22.02.2013 calling for documents for which the date of receipt by the assessee is 27.02.2013 and forwarded to Chartered Accountant's Office on 28.02.2013 morning. On representing around 3.30-4.00 pm before the assessing officer the AR was refused hearing stating that The Assessment Order has already been completed as the time given to assessee was 11.30 am. Assessment Order passed on 28.02.2013 effectively giving only 6 days which is less than normal period

of at least 1 week given for any notice issued u/s 142(1) to comply with the requirements showing that the order was passed in undue haste.

The very fact the Order was passed on 28/02/2013 wherein the detailed Assessment Order brings out the fact that the Order was already drafted for service.

2. Under the facts and circumstances of the case and in law, the Learned Commissioner of Income Tax (Appeals), erred in upholding the addition of if 43,60,180/- (being Gross Profit @ 8% of Turnover) made during the Assessment u/s 144 of the Income Tax Act,1961 without appreciating the fact that the books of accounts were duly audited by practicing Chartered Accountant and the time given to the Appellant for gathering, compiling and submitting the details asked was extremely short knowing fully well that the Company had stopped Operation on 31,03.2012 and there was no employee on day to day basis to look into the affairs of the company and last notice being served on 22.02.2013 calling for documents and the Assessment Order passed on 28.02.2013 effectively given only 6 days to comply with the requirements showing that the order was passed in undue haste.

3. The Learned Commissioner of Income Tax (Appeals), erred in upholding the view of levying interest u/s 234A, 234B, 234C and in initiating penalty proceedings u/s 271(1) (c) of the Act.

3. At the outset, it is noted that there is a delay of 375 days in filing the appeal. When the appeal was called up, no appeared on behalf of the assessee. For reasonable cause, assessee states that there was personal dispute between two directors. However, no cogent evidence in this regard is on record. The reasonable cause has been perused. There is no cogency in the same. Accordingly, this appeal filed by the assessee is dismissed in limine as time barred.

Pronounced in the open court on 08 .04.2022.

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 08/04/2022
Thirumalesh, Sr.PS

<u>Copy of the Order forwarded to</u> :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

BY ORDER,

//True Copy//

(Assistant Registrar)
ITAT, Mumbai