



IN THE INCOME TAX APPELLATE TRIBUNAL
"F" BENCH, MUMBAI
BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

ITA no.2832/Mum/2016
(Assessment Year :2010-11)

M/s. Vivita India Ltd.,
201, New Bharat Building
Ghorupdeo Cross Lane No.1
Off. Rambhau Bhogle Marg
Byculla (E)
Mumbai – 400 033
PAN NO:AAACG2415Q

..... Appellant

v/s

ITO,
Aayakar Bhavan
M.K.Road,
Mumbai – 400 020

..... Respondent

Assessee by : None
Revenue by : Shri Rajeev Gubgotra.

Date of Hearing – 07/08/2018

Date of Order – 23.08.2018

ORDER

PER SAKTIJIT DEY, J.M.

This is an appeal by the assessee against order dated 27/01/2016 of Id. Commissioner of Income Tax (Appeals)-24, Mumbai for the Assessment Year 2010-11.

2. Briefly the facts are, the assessee company filed its return of income for the impugned assessment year on 27/1/2016 declaring total income of ₹.8,34,561/-. The return of income filed by the

assessee was selected for scrutiny and the Assessing Officer, as evident from the assessment order, issued a number of statutory notices under section. 142(1) and 143(2) of the Act calling upon the assessee to furnish various details in support of its claim made in the return of income. As observed by the Assessing Officer, in spite of service of statutory notices, there was no compliance from assessee's side. Ultimately, vide letter dated 15/10/2012, the assessee without furnishing any information / detail called for simply requested the Assessing Officer to complete the assessment by accepting the return. Due to non-compliance of the queries made, the Assessing Officer proceeded to complete the assessment to the best of his judgment under section 144 of the Act on the basis of material available on record. The Assessing Officer observed, the assessee has not substantiated the claim of loss of ₹.8,34,561/- hence, he disallowed the same. Further, he observed that the claim of depreciation amounting to ₹.2,11,30,309/- cannot be allowed in absence of the tax audit report and the verification of the existing assets. Further, the Assessing Officer held that sundry creditors of ₹.7,76,790/- cannot be accepted in absence of confirmation from the concerned parties. Thus, he completed the assessment determining the total income at ₹.2,19,07,099/-.

3. Being aggrieved of the additions made in the assessment order, assessee preferred appeal before Commissioner (Appeals). Before the First Appellate Authority also, the assessee did not appear to represent its case. Therefore, the Commissioner (Appeals) disposed of the appeal ex parte confirming the disallowances / additions made by the Assessing Officer in absence of any supporting evidence filed by the assessee to justify its claim.

4. Being aggrieved by the aforesaid decision of the Id. Commissioner (Appeals), the assessee has filed the appeal before us. However, as could be seen from the material on record, in none of the dates fixed for hearing earlier before the Tribunal, the assessee either appeared or sought any adjournment. Thus, ultimately, the Bench directed the Id. DR to serve the notice of hearing on the assessee and the appeal was ultimately fixed for hearing on 07/08/2018. When the appeal was called for hearing today, as usual, no one was present on behalf of the assessee. On a query made to the Id. DR, he submitted that hearing notice issued by the Tribunal was served on the assessee on 10/07/2018, Copy of the report of the Assessing Officer along with acknowledgement for service of notice was placed before the Bench. Thus, from the aforesaid facts, it is crystal clear that the assessee is a habitual defaulter with regard to appearance in tax proceedings not only before the departmental authorities but before the Tribunal also.

Therefore, we have no other alternative but to dispose of the appeal ex parte qua the assessee after hearing learned DR and on the basis of material on record.

5. We have heard learned DR and perused material on record.

6. As could be seen from record, despite issuance of several statutory notices the assessee neither appeared before the Assessing Officer nor furnished any supporting evidence to justify various claims made in the return of income. As it appears, the assessee did not even furnish the tax audit report. Therefore, in absence of any supporting evidence, the Assessing Officer disallowed the claim of loss and depreciation. Further, he also added back unconfirmed sundry creditors. The situation remains the same before the Commissioner (Appeals) and as well as before us. At no stage the assessee came forward to file any supporting evidence to justify the claims made in the return of income and controvert the finding of the Assessing Officer. Therefore, in absence of any supporting material / evidence, furnished by the assessee, the disallowance / additions made by the Assessing Officer cannot be deleted. The grounds raised are dismissed.

7. In the result, assessee's appeal is dismissed.

Order pronounced in the open Court on 23.08.2018

Sd/-
MANOJ KUMAR AGGARWAL
ACCOUNTANT MEMBER

Sd/-
SAKTIJIT DEY
JUDICIAL MEMBER

MUMBAI, DATED:Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The CIT(A);*
- (4) *The CIT, Mumbai City concerned;*
- (5) *The DR, ITAT, Mumbai;*
- (6) *Guard file.*

*Karuna
Sr. P.S.*

True Copy
By Order

(Sr. Private Secretary)
ITAT, Mumbai