

IN THE INCOME-TAX APPELLATE TRIBUNAL “G” BENCH MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER
ITA No. 5850/Mum/2017 (Assessment Year 2011-12)

Worldline India Pvt. Ltd. (Formerly known as Atos Worldline India Pvt. Ltd.), 2 nd Floor, Tower-1, Raiaskaran Tech park, Phase II, M.V. Road, Sakinaka, Andheri (E), Mumbai-400072. PAN: AAACE2403J	Vs.	DCIT Circle -12(1)(1). Mumbai.
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Appellant

Respondent

Appellant by : Shri Ryan Saldanha (C.A.)

Respondent by : Shri Satish Rajore (Sr.DR)

Date of Hearing : 12.06.2019

Date of Pronouncement : 12.06.2019

ORDER UNDER SECTION 254(1) OF INCOME TAX ACT

PER PAWAN SINGH, JUDICIAL MEMBER;

1. This appeal by assessee is directed against the order of Id. Commissioner of Income Tax (Appeals)-20, [the Id. CIT(A)], Mumbai dated 27.06.2017 for Assessment Year 2011-12. The assessee has raised the following grounds of appeal:

1. The Ld. CIT(A) erred in dismissing the appeal without proper opportunity of being heard. Thus, the order passed by Ld. CIT(A) is bad-in-law.
2. On the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming disallowance of Rs.34,64,475/- in respect of purchases made from M/s. Krsna Enterprises without properly appreciating the facts of the case and law applicable thereto.
3. On the facts and in the circumstances of the case, the Ld. CIT(A) erred in confirming disallowance u/s 37(1) of Rs.49,52,000/- in respect of membership

fees without properly appreciating the facts of the case and law applicable thereto.

4. The appellant prays that the above disallowances may be deleted.

2. At the outset of hearing, the Id. Authorized Representative (AR) of the assessee submits that the Id. CIT(A) passed the ex-parte order and dismissed the appeal of the assessee. It was further submitted that representative of the assessee could not appear before the Id. CIT(A) due to bonafide reasons when the appeal was fixed for hearing. The Id. AR of the assessee submits that first notice of hearing was fixed by Id. CIT(A) on 22.03.2016. The address of assessee was changed from 2nd Floor, Tower-1, Raiaskaran Tech park, Phase II, M.V. Road, Sakinaka, Andheri (E). Therefore, no notice was received for said date. Again on 06.10.2016, the notice was issued for hearing on 24.10.2016, on 24.10.2016, the assessee sought adjournment on the ground of compiling the details. The hearing of appeal was again fixed on for 06.06.2017. The representative of assessee went to attend the proceeding on 06.06.2017, however, the Id. CIT(A) was not present in office and it was intimated that fresh notice would be issued. On 08.06.2017, the hearing of appeal was again fixed for hearing on 23.06.2017. The assessee has not received any notice as notice was issued at wrong address. The assessee has already furnished the address of their Chartered Accountant on 06.10.2016. However, no notice was received on such address. The Id. AR of the assessee has good case on merit and likely to succeed in case the assessee is granted

opportunity to contest the case on merit. It was further submitted that Id. CIT(A) has not decided the appeal on merit.

3. On the other hand, the Id. Departmental Representative (DR) for the revenue supported the order of Id. CIT(A). The Id. DR submits that assessee is most negligent in appearing before the Id. CIT(A). The Id. CIT(A) fixed the hearing of appeal on four occasions, the representative of assessee appeared only once. The Id. DR prayed for dismissal of appeal.
4. We have considered the rival submissions of the parties and have gone through the order of Id. CIT(A). We have noted that the Id AR for the assessee has elaborately explained that first notice of hearing was fixed by Id. CIT(A) on 22.03.2016, the address of assessee was changed from 2nd Floor, Tower-1, Raiaskaran Tech park, Phase II, M.V. Road, Sakinaka, Andheri (E). Therefore, no notice was received for said date. Again on 06.10.2016. The notice was again issued for hearing on 24.10.2016, on 24.10.2016, the assessee sought adjournment on the ground of compiling the details. The hearing of appeal was again fixed on for 06.06.2017. It was explained that the representative of assessee went to attend the proceeding on 06.06.2017, however, the Id. CIT(A) was not present in office and it was intimated that fresh notice would be issued. On 08.06.2017, the hearing of appeal was again fixed for hearing on 23.06.2017. The assessee has not received any notice as notice was issued at wrong address. Perusal of impugned order reveals that the Id. CIT(A) has not recorded his satisfaction whether the notice issued on

08.06.2017 for fixing the date of hearing on 23.06.2017 was received or not or any acknowledgment of notice was received in his office. There is no satisfaction of Id. CIT(A) that notice was returned un-served.

5. In view of the above, the assessee has satisfactorily explained the reasons of non-appearance. We are of further view that the assessee would not get any benefit in intentional and deliberate absence in attending the proceeding before the First Appellate Authority (FAA). Considering the submissions of Id. AR of the assessee, we are of the view that the assessee has shown sufficient cause for non-appearance on 23.06.2017. Therefore, in our view, the impugned order is passed without giving fair and proper opportunity to the assessee, therefore, we allowed the ground no.1 of the appeal raised by assessee and restore the appeal to the file of Id. CIT(A) for deciding all the grounds of appeal afresh. Needless to say that before deciding the issue, the Id. CIT(A) shall grant adequate and sufficient opportunity to the assessee. The assessee is also directed to fully co-operate and provide all the necessary information and documentary evidences to Id. CIT(A) and not to seek adjournment without any valid reasons.
6. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 12 /06/2019.

Sd/-
M. BALAGANESH,
ACCOUNTANT MEMBER

Mumbai, Date: 12.06.2019
SK

Sd/-
PAWAN SINGH
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. Assessee
2. Respondent
3. The concerned CIT(A)
4. The concerned CIT
5. DR "G" Bench, ITAT, Mumbai
6. Guard File

BY ORDER,

**Dy./Asst. Registrar
ITAT, Mumbai**