

IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES “ A ” BENCH: BANGALORE
**BEFORE SHRI A.K. GARODIA, ACCOUNTANT MEMBER
AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA No.3145/Bang/2018
(Assessment Year: 2015-16)

M/s. Oaknet Healthcare Pvt. Ltd.,
No.64, 1st Floor, 3rd Cross,
Ramamurthy Nagar,
Venkata Ramaiah Layout,
Bangalore-560
PAN AAJCA 7142F

....Appellant

Vs.

Dy. Commissioner of Income Tax,
Circle 5(1)(2), Bangalore.

.....Respondent.

Assessee By:	Shri Chavali Narayan, C.A.
Revenue By:	Ms. Neera Malhotra, CIT (D.R)

Date of Hearing :	02.03.2020
Date of Pronouncement :	04.03.2020

ORDER

PER SHRI PAVAN KUMAR GADALE, JM :

The assessee has filed an appeal against the order of Commissioner of Income Tax (Appeals)-5, Bangalore passed under Section 143(3) and 250 of the Income Tax Act, 1961 ('the Act').

2. The assessee has raised various grounds of appeal in respect of disallowance made by the Assessing Officer. At the time of hearing, it was brought to the knowledge of the Bench that the CIT (Appeals) has confirmed the action of the Assessing Officer and dismissed the assessee appeal for non-prosecution.

3. The Brief facts of the case are that the assessee is engaged in the business of manufacturing and pharmaceutical engineering and filed the Return of Income for the Assessment Year 2015-16 on 28.11.2015 declaring total income Rs NIL. Subsequently, the case was selected for scrutiny under CASS and Notice under Section 143(2) and 142(1) of the Act were issued. In compliance, the learned Authorized Representative of the assessee has appeared before the Assessing Officer and furnished the details. The Assessing Officer after perusal of the information and submissions, disallowed the claim of depreciation and assessed total income of (-) Rs.60,22,74,098. Aggrieved by the order, the assessee has filed an appeal before the CIT(Appeals) and CIT(Appeals) has dismissed the appeal ex-parte. Aggrieved by the CIT(Appeals) order, the assessee has filed an appeal before the Tribunal.

4. At the time of hearing, the learned Authorized Representative submitted that the CIT(Appeals) has passed ex-parte order without considering the request made for adjournment and submitted that the assessee has prima facie good case on

merits and prayed for allowing the appeal. Contra, the learned Departmental Representative supported the orders of CIT(Appeals).

5. We heard the rival contentions and perused the material on record. The learned Authorized Representative has restricted the submissions on the exparte order passed by the CIT(Appeals) and emphasized that earlier the Authorized Representative was authorized for appearance but could not appear on 14.09.2018 [last hearing fixed by the CIT (Appeals)]for various reasons and only after the assessee received the exparte order of CIT (Appeals) came to know about non-appearance. The CIT(Appeals) has fixed hearing on 19.04.2018, 10.5.2018, 15.6.2018 and 14.9.2018. The assessee has sought adjournment but none appeared on 14.09.2018. The assessee has substantial material evidences to controvert the additions made by the Assessing Officer and prayed for an opportunity to substantiate before the CIT(Appeals). We found the CIT(Appeals) has provided opportunity of hearing to the assessee but the then learned Authorised Representative could not appear on 14.09.2018 on health grounds as submitted by the learned Authorized Representative. Whereas the CIT (Appeals) based on the written submissions, has confirmed the additions of the Assessing Officer and dismissed the appeal. we considering the facts and circumstances of the case and submissions of the learned Authorized Representative, are of the opinion that the revenue shall not at loss if an opportunity is provided to the assessee.

Accordingly, to meet the ends of justice, we set aside the order of CIT(Appeals) and restore the entire disputed issue to the CIT(Appeals) to adjudicate afresh and grant opportunity of hearing to the assessee and assessee shall co-operate in submitting the information for early disposal of appeal and allow the grounds for statistical purposes.

6. In the result, appeal of the assessee is allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(A.K. GARODIA)
ACCOUNTANT MEMBER

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Dated: 04.03 .2020.

*Reddy GP

Copy to

1. The appellant
2. The Respondent
3. CIT (A)
4. Pr. CIT
5. DR, ITAT, Bangalore.
6. Guard File

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore