

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B”BENCH: BANGALORE**

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT
MEMBER AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.1744/Bang/2019
AssessmentYear:2016-17

M/s. Garage Labs Technologies Pvt. Ltd. #202, CJVD, 50 Ft. Road, 9 th Cross, Padmanabhanagar Bengaluru-560070 PAN NO :AAF CG7400C	Vs.	The Income Tax Officer Ward-3(1)(2) Koramangala Bengaluru
APPELLANT		RESPONDENT

Appellant by	:	None – Letter brought by Shri Shivakumar, Office Assistant
Respondent by	:	Shri Rajendra Chandekar, D.R.

Date of Hearing	:	09.03.2020
Date of Pronouncement	:	11.03.2020

ORDER

PER B.R. BASKARAN, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against order dated 7.6.2019 passed by Ld. CIT(A)-3, Bengaluru and it relates to the assessment year 2016-17. The

assessee is aggrieved by the decision of Ld. CIT(A) in confirming the addition made u/s 56(2)(viib) of the Income-tax Act,1961 ['the Act' for short] relating to the share premium received by the assessee.

2. At the time of hearing, an adjournment request was moved by the representative of the assessee seeking time to file paper books. The said letter was presented by a messenger of the representative. However, on going through the order passed by Ld. CIT(A), we notice that the first appellate authority was constrained to pass ex-parte order, since the assessee did not appear before him despite giving opportunity to the assessee three times. Hence we reject the adjournment request and proceed to dispose of the appeal.

3. We also notice that the assessee has not filed any written submissions before Ld. CIT(A). Under these set of facts, the Ld. CIT(A) has passed the order ex-parte, without presence of the assessee. We also notice that the Ld. CIT(A) has passed a detailed order and confirmed the addition made by the Assessing Officer u/s 54(2)(viib) of the Act.

4. We heard Ld. D.R., who submitted that the order passed by Ld. CIT(A) should be upheld since the Ld. CIT(A) has passed a reasoned and detailed order. However, we notice that the assessee did not appear before Ld CIT(A). Hence, in the interest of natural justice, we are of the view that the assessee should be given an opportunity to present its case. Since the assessee was delinquent before Ld. CIT(A), we are of the view that the assessee should bear a cost of Rs.5,000/- (Rs. Five

thousand only), which shall be paid to the credit of the Income Tax department as “other fees” within 30 days from the date of receipt of this order. Subject to the payment of above fee, we set aside the order passed by Ld. CIT(A) and restore all the issues to his file for adjudicating them afresh, after affording adequate opportunity of being heard to the assessee. We also direct the assessee to fully cooperate with Ld. CIT(A) for expeditious disposal of the appeal.

5. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 11.03.2020

Sd/-
(Beena Pillai)
Judicial Member

Sd/-
(B.R. Baskaran)
Accountant Member

Bangalore,
Dated 11th March, 2020.
/VG/

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.

1. Date of Dictation
2. Date on which the typed draft is placed
before the dictating Member
3. Date on which the approved draft comes to Sr.P.S
.....
4. Date on which the fair order is placed
before the dictating Member
5. Date on which the fair order comes back to the Sr. P.S.
.....
6. Date of uploading the order on
website.....
7. If not uploaded, furnish the reason for doing so
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8. Date on which the file goes to the Bench Clerk
.....
9. Date on which order goes for Xerox &
endorsement.....
10. Date on which the file goes to the Head Clerk
.....
11. The date on which the file goes to the Assistant
Registrar for signature on the order
.....
12. The date on which the file goes to dispatch section for
dispatch of the Tribunal Order
13. Date of Despatch of Order.
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14. Dictation note enclosed.....