

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "B-SMC", HYDERABAD

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

ITA No.631/Hyd/2019	
Assessment Year: 2007-08	
Sri Chillara Kalyan, Hyderabad. PAN: ACSPC 2026 Q	Vs. Dy. Commissioner of Income Tax, Hyderabad (Now with ITO, Ward-14(5), Hyderabad).
(Appellant)	(Respondent)
Assessee by:	None
Revenue by:	Sri Solgy Jose T. Kottram, DR
Date of hearing:	17/03/2020
Date of pronouncement:	24/06/2020

ORDER

PER A. MOHAN ALANKAMONY, AM.:

This appeal is filed by the assessee against the order of the Ld. CIT(A)-6, Hyderabad in appeal No. 1463/2014-15/B1/CIT(A)-6, dated 08/01/2018 passed U/s. 143(3) r.w.s 250(6) of the Act for the A.Y. 2009-10.

2. The assessee has raised the following grounds in its appeal:-

- (i) *On the facts and in the circumstances of the case, the Ld. CIT(A)-6, Hyderabad erred in dismissing the appeal.*
- (ii) *The Ld. CIT(A) erred in sustaining the disallowance of Rs. 6,15,755/- relating to production expenditure.*

- (iii) *The Ld. CIT(A) failed to appreciate that as per Rule 9A(1) of the Rules, all expenditure incurred on the production of the film shall be treated as cost of production of the film except the expenditure incurred for the preparation of the positive prints of the film and expenditure incurred in connection with the advertisement of the film after it is certified for release by the Censor Board.*

3. At the time of hearing before me none appeared to represent the case of the assessee. On examining the records, I find that the Ld. CIT (A) has passed ex-parte order because even before him neither the assessee nor his Counsel appeared to pursue the appeal. Ld. DR, vehemently argued by stating that sufficient opportunities had been provided to the assessee however, the assessee had failed to co-operate before the Ld. CIT (A) in his proceedings.. It was further submitted that the Ld. CIT (A) had no other option but to pass ex-parte order based on the materials available on record. Hence, it was pleaded that the order passed by the Ld. CIT(A) does not call for any interference.

4. I have heard the Ld. DR and carefully perused the materials on record. On examining the facts of the case, I find merit in the submissions of the Ld. DR. The Ld. CIT (A) had posted the case on several occasions. However, none appeared on behalf of the assessee before the CIT(A) on the given dates of hearing. Therefore, the Ld. CIT (A) was left with no other option except to adjudicate the appeal ex-

parte. Even before me on the date of hearing, none appeared to represent the assessee's case. However, considering the issues involved in the appeal, in the interest of justice, I hereby remit the matter back to the file of Ld. CIT (A) in order to consider the grounds raised in the appeal before us and thereafter pass appropriate orders in accordance with law and merits by providing one more opportunity to the assessee of being heard. At the same breath, I also hereby caution the assessee to promptly co-operate before the Ld. CIT (A) in the proceedings failing which the Ld. CIT (A) shall be at liberty to pass appropriate order in accordance with law and merits based on the materials on the record. It is ordered accordingly.

5. Before parting, it is worthwhile to mention that this order is pronounced after 90 days of hearing the appeal, which is though against the usual norms, I find it appropriate, taking into consideration of the extra-ordinary situation in the light of the lock-down due to Covid-19 pandemic. While doing so, I have relied in the decision of Mumbai Bench of the Tribunal in the case of DCIT vs. JSW Ltd. In ITA No.6264/M/2018 and 6103/M/2018 for AY 2013-14 order dated 14th May 2020.

6. In the result, appeal filed by the assessee is allowed for statistical purposes as indicated hereinabove.

Pronounced in the open Court on 24th June, 2020.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 24th June, 2020.

OKK

Copy to:-

- 1) Sri Chillara Kalyan, Plot No.31-B, H.No. G-1, Sri Hari Nilayam,
Road No. 5, Jubilee Hills, Hyderabad – 500 033.
- 2) Dy. CIT, Circle-13(1), Hyderabad.
- 3) The CIT(A)-6, Hyderabad
- 4) The Pr. CIT-6, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File