

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH '(C)', KOLKATA

[BEFORE SHRI P.M. JAGTAP, HON'BLE VICE PRESIDENT (KZ) &
SHRI A. T. VARKEY, HON'BLE JUDICIAL MEMBER]

[Through Virtual Court]

I.T.A. No. 598/Kol/2019
Assessment Year: 2012-13

M/s. JV Vinimay Pvt. Ltd.....Appellant
5/1, Clive Row, 4th Floor, Room No. 125,
Kolkata - 700 001.
[PAN: AACJ 0021 H]

Vs

ITO, Ward - 6(2), Kolkata.....Respondent
Kolkata - 700 069.

Appearances by:

None appearing on behalf of the Assessee.

Shri Vijay Shankar, CIT appearing on behalf of the Revenue.

Date of concluding the hearing : October 07, 2020

Date of pronouncing the order : October 21, 2020

ORDER

PER P.M. JAGTAP, VICE-PRESIDENT (KZ)

This appeal filed by the assessee is directed against the order of Ld. CIT(Appeals) - 2, Kolkata dated 12.02.2018 passed ex-parte whereby he dismissed the appeal of the assessee for non-prosecution.

2. The assessee in the present case is a company which is engaged in the business of investment and trading in shares. The return of income for the year under consideration was filed by it on 29.03.2013 declaring a loss of Rs. 31,907/-. In the assessment completed u/s 143(3) vide an order dated 21.03.2015, the total income of the assessee was determined by the AO at Rs. 23,28,75,000/- after making the following additions:

“i. Disallowance u/s 14A	Rs. 31,907/-
ii. Addition u/s 68 by treating the share capital & share premium amount as unexplained cash credit	Rs. 23,28,75,000/-”

3. Against the order passed by the AO u/s 143(3), an appeal was preferred by the assessee before the Ld. CIT(A) and since there was no satisfactory compliance on the part of the assessee to the notices issued by him fixing the said appeal for hearing from time to time, the Ld. CIT(A) dismissed the appeal of the assessee vide his appellate order dated 12.02.2018 passed ex-parte. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

4. At the time of hearing fixed in this case before the Tribunal, none has appeared on behalf of the assessee. It is however observed from the impugned order of the Ld. CIT(A) that the applications were filed by the assessee-company in writing seeking adjournment of hearings fixed before the Ld. CIT(A) and this position is not disputed even by the Ld. DR. Moreover, as per the provisions of sub-section (6) of section 250, the Ld. CIT(A) was required to dispose of the appeal of the assessee vide an order in writing stating the points for determination, the decision thereon and the reasons for the decision. It is observed that the impugned order passed by the Ld. CIT(A) does not comply with these requirements. We, therefore, consider it fair and proper and in the interest of justice to set aside the impugned order passed by the Ld. CIT(A) ex-parte dismissing the appeal of the assessee for non-prosecution and remit the matter back to him for disposing of the appeal afresh on merit in accordance with law by passing a well

reasoned and well discussed order after giving proper and sufficient opportunity of being heard to the assessee.

5. In the result, the appeal of the assessee is treated as allowed for statistical purpose.

Order Pronounced in the Open Court on 21st October, 2020.

Sd/-
(A.T. VARKEY)
JUDICIAL MEMBER

Sd/-
(P.M. JAGTAP)
VICE PRESIDENT

Dated: 598/10/2020
Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. JV Vinimay Pvt. Ltd., 5/1, Clive Row, 4th Floor, Room No. 125, Kolkata – 700 001.
2. ITO, Ward – 6(2), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar
ITAT, Kolkata