

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'E' BENCH,  
NEW DELHI [THROUGH VIDEO CONFERENCE]

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
SHRI KULDIP SINGH, JUDICIAL MEMBER

ITA No. 7335/DEL/2017  
[Assessment Year: 2013-14]

MARC Laboratories Ltd  
Plot No. 5, 2<sup>nd</sup> Floor, BN Block  
Central Market, Shalimar Bagh,  
New Delhi

Vs.

The I.T.O  
Ward 16(2)  
New Delhi

PAN : AAACM 2385 F

[Appellant]

[Respondent]

Date of Hearing : 09.03.2021  
Date of Pronouncement : 09.03.2021

Assessee by : Shri Manoj Aggarwal, CA

Revenue by : Shri Gayabuddin Ansari, Sr.DR

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-**

This appeal by the assessee is preferred against the order of the  
ld. CIT(A)-6, New Delhi dated 10.10.2017 pertaining to A.Y 2013-14.

2. The sum and substance of the grievance of the assessee is that the ld. CIT(A) erred in dismissing the appeal in limine assuming that the appellant is not interested in pursuing the statutory remedy of the appeal because the appellant could not appear for hearing.

3. Representatives of both the sides were heard at length, case records carefully perused.

4. Facts on record show that the appellant is in the business of manufacturing and trading of pharmaceutical products, animal feed, supplements, IT related services, etc. Return of income was e-filed on 30.11.2013 declaring total income at Rs. 1,21,483/-. Assessment was framed u/s 143(3) of the I.T. Act, 1961 vide order dated 31.03.2016 and income was assessed at Rs. 6,55,36,580/-.

5. The assessee preferred an appeal before the ld. CIT(A) but for reasons best known to it, the appellate proceedings could not be attended.

6. Regardless of non-appearance by the appellant, the ld. CIT(A), in his wisdom, dismissed the appeal in limine by applying the decisions of the Hon'ble Jurisdictional High Court of Delhi in the case of Multiplan India Pvt. Ltd 38 ITD 329 and the decision in the case of Estate of late

Tukojirao Holkar 223 ITR 480 of the Hon'ble High Court of Madhya Pradesh.

7. We are of the considered opinion that even if for some reason the appellant could not attend the appellate proceedings, the Id. CIT(A) ought to have decided the appeal on merits of the case.

8. In the interest of justice and fair play, we restore this appeal to the file of the Id. CIT(A). The assessee is directed to attend the appellate proceedings before the Id. CIT(A) on 12.07.2021 and the Id. CIT(A) is directed to decide the appeal afresh after giving reasonable opportunity of being heard to the assessee.

9. In the result the appeal of the assessee in ITA No. 7335/DEL/2017 is allowed for statistical purposes.

The order is pronounced in the open court in the presence of both the rival representatives on 09.03.2021.

Sd/-

[KULDIP SINGH]  
JUDICIAL MEMBER

Sd/-

[N.K. BILLAIYA]  
ACCOUNTANT MEMBER

Dated : 09<sup>th</sup> March, 2021

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

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Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
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Date on which the file goes to the Head Clerk	
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