

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'F' NEW DELHI**

**BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER  
AND  
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

**I.T.A. No. 778/DEL/2020 (A.Y 2016-17)**

**(THROUGH VIDEO CONFERENCING)**

Wellisen Nutraceuticals Pvt. Ltd. 401A, 4 <sup>th</sup> Floor, Amar Synergy Sadhu Vaswani Chowk, Pune, Maharashtra AACCV3730F <b>(APPELLANT)</b>	Vs	ACIT Circle-27(2) New Delhi  <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Sh. Gaurav Gupta, Adv</b>
<b>Respondent by</b>	<b>Sh. Mahesh Thakur, Sr. DR</b>

<b>Date of Hearing</b>	<b>30.03.2021</b>
<b>Date of Pronouncement</b>	<b>30.03.2021</b>

**ORDER**

**PER SUCHITRA KAMBLE, JM**

This appeal is filed by the assessee against the orders dated 28/12/2018 passed by ACIT, Circle 27(2), New Delhi for assessment year 2016-17.

2. The grounds of appeal are as under:-

1. *"In law and on the facts & circumstances of the assessee's case, the impugned order u/s.250 is bad in law, inasmuch it is passed exparte.*

2. *In law and on the facts & circumstances of the assessee's case, the Ld. CIT(A) has erred in upholding the addition of Rs.2,55,54,231 made by the AO on account of goodwill which was held by the AO to be bogus.*

2.1 *Both, the AO and the Ld.CIT(A) have failed to establish as to how the goodwill was bogus and further has failed to appreciate that such goodwill was not claimed in the return by way of deduction, and hence, the addition was not justified.*

*2.2 Having regard to the facts & circumstances of the appellant's case, the addition of Rs.2,55,54,231 so made may please be deleted.*

*3. In law and on the facts & circumstances of the assessee's case, the Ld.CIT(A) has erred in upholding the addition of Rs.8,79,736 made by the AO on account of disallowance of claim for depreciation on goodwill.*

*3.1. Having regard to the facts and circumstances of the assessee's case the addition of Rs. 8,79,736/0 so made may please be deleted.*

3. The assessee filed return of income on 5/10/2016 declaring loss of Rs. 84,17,018/-. The Assessing Officer passed assessment order dated 28/12/2018 determining total income at Rs. 1,80,16,950/- after making additions on account of good will and addition on account of disallowance of depreciation.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the CIT(A) has electronically e-mailed the notice of hearing to one of the ex-employees and the notices were not properly served upon the assessee. The Ld. AR submitted that the CIT(A) has passed ex-parte order and it may be appropriate to remand back this appeal to the file of the CIT(A) for proper adjudication of the ground on merits after hearing the assessee.

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. We have heard both the parties and perused the material available on record. It is pertinent to note that the CIT(A) has not granted proper opportunity to the assessee for giving an elaborate hearing. Therefore, it will be appropriate to remand back all the issues to the file of the CIT(A) for proper adjudication of all the grounds in detail after giving opportunity of hearing to the assessee. Needless to say, the assessee be given opportunity of hearing by

following principles of natural justice. The appeal of the assessee is partly allowed for statistical purpose.

8. In result, the appeal of the assessee is partly allowed for statistical purpose.

**Order pronounced in the open court in presence of both the parties on this 30th day of March, 2021.**

**Sd/-  
(R. K. PANDA)  
ACCOUNTANT MEMBER**

**Sd/-  
(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

Dated: 30/03/2021  
*R. Naheed \**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

