

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH '(B)', KOLKATA  
[Before Shri P.M. Jagtap, Vice President (KZ) & Shri A. T. Varkey, JM]

[Through Virtual Court]

I.T.A. No. 93/Kol/2021  
Assessment Year: 2014-15

*M/s. Bhujadhari Financial Advisory Pvt. Ltd.....Appellant*  
*(Now known as M/s. Vivek Vyapar Limited)*  
*22, R.N. Mukherjee Road, 3<sup>rd</sup> Floor,*  
*West Bengal – 700 001.*  
*[PAN: AADCB 9417 C]*

Vs

*DCIT, Circle – 8(1) Kolkata.....Respondent*  
*P-7, Chowringhee Square,*  
*Kolkata – 700 069.*

**Appearances by:**

*Shri Miraj D Shah, AR appearing on behalf of the Assessee.*

*Smt. Ranu Biswas, ACIT, Sr. DR appearing on behalf of the Revenue.*

Date of concluding the hearing : March 19, 2021

Date of pronouncing the order : March 19, 2021

**ORDER**

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

This appeal filed by the assessee is directed against the order of Ld. CIT(Appeals) - 15, Kolkata dated 28.03.2019 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 trading/dealing in shares and securities. The return of income for the year under consideration was filed by it on 12.11.2014 declaring a total income of Rs. 34,51,620/-. In the said return, the short term capital loss of Rs. 27,24,424/- was claimed by the assessee as arising from the sale of shares of M/s. Global Infratech & Finance Limited and M/s. Rutron International Limited. During the course of assessment proceedings, this claim of the assessee was examined by the AO and a detailed enquiry was made by him in order

to ascertain the genuineness of the relevant transactions in shares of the two concerned companies. On such examination, he found the claim of the assessee for short term capital loss to be unacceptable for the detailed reasons given and findings recorded in the assessment order passed u/s 143(3). He accordingly treated the amount of Rs. 27,24,424/- as unexplained cash credit u/s 68 and addition to that extent was made by him to the total income of the assessee in the assessment completed u/s 143(3) vide an order dated 27.12.2016.

3. Against the order passed by the AO u/s 143(3) of the Act, 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 for non-prosecution vide his appellate order dated 02.01.2017 passed ex-parte. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

4. We have heard the arguments of both the sides and also perused the relevant material available on record. As submitted by the learned counsel for the assessee, none of the notices stated to be issued by the Ld. CIT(A) fixing the appeal of the assessee for hearing from time to time was ever received by the assessee and the assessee, therefore, could not comply with the same. Keeping in view this submission made by the learned counsel for the assessee, we find that the non-compliance on the part of the assessee before the Ld. CIT(A) was due to non-receipt of the notices of the hearing which constituted a sufficient cause. 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, set aside the impugned order passed by the Ld. CIT(A) ex-parte and remit the matter back to him for disposing of the appeal of the assessee afresh on merit in accordance with law after giving proper and sufficient opportunity of being heard to the assessee. As undertaken by the learned counsel for the assessee, the assessee shall make due compliance before the Ld. CIT(A) and shall extend all the possible cooperation in order to enable the Ld. CIT(A) to dispose of the appeal expeditiously.

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

Order Pronounced in the Open Court on 19<sup>th</sup> March, 2021.

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

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

**Dated: 19/03/2021**  
Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. Bhujadhari Financial Advisory Pvt. Ltd., (Now known as M/s. Vivek Vyapar Limited), 22, R.N. Mukherjee Road, 3<sup>rd</sup> Floor, West Bengal – 700 001.
2. DCIT, Circle – 8(1), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar / D.D.O.  
ITAT, Kolkata