

IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH, MUMBAI
BEFORE SHRI M BALAGANESH, ACCOUNTANT MEMBER &
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 188/Mum/2020

(A.Y: 2013-14)

M/s. Zydus Takeda Healthcare Pvt Ltd., C-4, MIDC Village, Panvel Thane Road, Navi Mumbai – 400705	Vs.	DCIT – 15(3)(1) R.N. 451, 4 th Floor, Aayakar Bhavan, MK Road, Mumbai.
PAN/GIR No. : AAACZ0736D		
Appellant	..	Respondent

Appellant by :	Shri Anil Bhosale, AR
Respondent by :	Shri T.S Kalsa, DR

Date of Hearing	19.07.2021
Date of Pronouncement	19.07.2021

आदेश / O R D E R

PER PAVAN KUMAR GADALE, JM:

The appeal is filed by the assessee against the order of the Commissioner of Income Tax (Appeals) -24 Mumbai, passed u/s. 143(3) r.w.s and 250 of the Income Tax Act, 1961. The assessee has raised the following grounds of appeal:

“1. The CIT(A) erred in confirming disallowance of Repairs and Maintenance of building and Plant & Machinery aggregating to Rs. 11,54,092/- on the ground that the said expenditure is capital in nature.

2. The CIT(A) without giving sufficient opportunity of being heard, erred in disposing the appeal ex parte vide his order dated 31.10.2019.

3. The CIT(A) failed to appreciate that two notices issued on 4th September 2019 and 25th October 2019 were sent on the e-mail address of the retired Managing Director and therefore, the said e-mail was disabled on his retirement on 31st October 2018. Hence no notice of hearing was ever served or issued to the assessee company and hence the ex parte order of the Commissioner (Appeals) is bad in law and without jurisdiction.

4. Your appellant craves leave to add to, alter, amend or delete any of the foregoing grounds of appeal.

2. At the time of hearing, The Ld.AR submitted that the Ld.CIT(A) has passed an ex parte for non prosecution of appeal by the assessee and prayed for one more opportunity of hearing before CIT(A) and has a good case on merits. Contra, the Ld. DR supported the order of the CIT(A).

3. We heard the rival submissions and perused the material on record. Prima-facie the CIT(A) has passed the ex-parte order considering the fact that there is no appearance in spite of providing adequate opportunity of hearing and notices were issued on 4-09-2019 & 25-10-2019. Therefore, the CIT(A) was of the opinion that the assessee is not interested/serious in prosecuting the appeal and dismissed the appeal ex-parte considering the material available on record. We on perusal of the CIT(A)

found that the Ld.CIT(A) has issued the notice of hearing, but there was no response and thus the Ld.CIT(A) came to a conclusion that the assessee is not inclined to pursue the appeal. We find that the assessee company has raised grounds of appeal challenging additions of the A.O. and there could be various reasons for non appearance one being the notice was sent to email address of retired managing director. We considering the principles of natural justice shall provide one more opportunity of hearing to the assessee to substantiate its case before the CIT(A) along with evidences and information. Accordingly, we set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh on merits and the assessee should cooperate in submitting the information for early disposal of the appeal and allow the grounds of appeal of the assessee statistical purposes.

4. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 19.07.2021

Sd/-

(M BALAGANESH)
ACCOUNTANT MEMBER

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 19.07.2021

KRK, PS

आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

(Asst. Registrar)
ITAT, Mumbai