

आयकर अपीलीय अधिकरण
मुंबई पीठ "जी", मुंबई
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "G", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
आअसं. 1922/मुं/2018 (नि.व.2012-13)
ITA NO.1922/MUM/2018 (A.Y.2012-13)

Shri Sohanlal M. Jain

D/505, Tulip the valley of flowers,
Thakur Village, Kandivali (E),
Mumbai-400101.

PAN: **AHRPJ4078M**

..... अपीलार्थी /Appellant

बनाम Vs.

ACIT- Circle-2, Ashar I.T. Park,
Room No. 16Z, Wagle Estate,
Ambika Nagar, Thana (W).

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : None

प्रतिवादी द्वारा/Respondent by : Sh. T.S. Khalsa

सुनवाई की तिथि/ Date of hearing : 18/08/2021

घोषणा की तिथि/ Date of pronouncement : 27/08/2021

आदेश/ ORDER

PER VIKAS AWASTHY, J.M:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-1, Thane [hereinafter referred to as 'the CIT(A)'] ' dated 20.12.2017 for the Assessment Year (AY) 2012-13.

2. A perusal of file shows that after filing of the appeal in 2018, non-appeared to represent the assessee on the dates fixed for hearing of the appeal. Repeated notices through RPAD were sent to the assessee on the address mentioned in Form-36 filed by the assessee at the time of filing of the appeal. The notices sent on the said address have not been received back unserved, therefore, it is deemed that the notices were served on the assessee. Since, the assessee is neither appearing in person nor through any Authorised Representative to defend appeal it seems the assessee/appellant is not keen to prosecute the appeal. Therefore, the appeal is taken up for hearing within the assistance of Id. Departmental Representative and material available on record.

3. The assessee in appeal has assailed the order of CIT(A) on two counts i.e. (1) Addition of Trader creditors Rs. 54,35,600/-; and (2) Disallowance of expenditure Rs. 66,24,233/- under section 69C of the Income Tax Act, 1961 [hereinafter referred to as 'the Act'].

4. The aforesaid additions were made by the Assessing Officer (AO) vide assessment order dated 27.03.2015 passed under section 143(3) of the Act. The assessee filed appeal against the said assessment order. During First Appellate proceedings, it is observed that the assessee never appeared before the CIT(A) despite repeated notices. The assessee has been filing letter of adjournment before the CIT(A) on every date of hearing. On 05.12.2016 the Id. AR of the assessee informed that the assessee/appellant has opted for DTDRS-2016 and requested for adjournment. On the request of assessee, the case was adjourned. Lateron it transpired that the assessee failed to comply with tax liability determined as per Form No.3 issued under DTDRS-2016. Consequently, the certificate issued in Form No.3 by the designated authority was cancelled. Thereafter, the CIT(A) again issued notice to the assessee/appellant for hearing

of appeal fixed on 14.11.2017 and thereafter on 11.12.2017, however, neither the assessee nor any AR of the assessee attended the proceedings. The CIT(A) was constrained to pass an ex-parte order. The CIT(A) vide impugned order dismissed the appeal of assessee and confirmed the additions made in assessment order.

Thereafter, the assessee filed second appeal before the Tribunal. After filing of appeal, the assessee failed to appear before the Tribunal. It seems that the assessee is not interested to defend his appeal. The conduct of the assessee before the Tribunal is no different from his conduct before the CIT(A). The appeal of the assessee remained orphaned before the CIT(A), as well as, before the Tribunal.

5. Sh. T.S. Khalsa representing the Department vehemently supported the assessment order and the order of CIT(A) in confirming the addition. The Id. DR submitted that the assessee has not been able to show as to how the addition made by the AO is not sustainable.

6. Submissions made by Id. DR heard, orders of the authorities below examined. No material controverting the findings of AO/CIT(A) is available before us. We see no reason to interfere with the impugned order, hence, the same is upheld and the appeal of assessee is dismissed.

Order pronounced in the open court on **Friday**, the **27th** day of August, 2021.

Sd/-

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई/Mumbai, दिनांक/Dated: 27/08/2021

SK, PS

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य / JUDICIAL MEMBER

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
6. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai