

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI  
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष  
Before Shri Duvvuru RL Reddy, Judicial Member &  
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No. 1937/Chny/2019  
निर्धारण वर्ष/Assessment Year: 2014-15

M/s. Saicare India Pvt. Ltd.,  
67, LA Avenue, Opposite to Panchayat  
Office, Pudupakkam, Chennai 600 041.

The Deputy Commissioner of  
Income Tax, Corporate Circle 6(1),  
Chennai 600 034.

**[PAN:AAKCS3908A]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri D. Anand, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Shri G. Johnson, Addl. CIT  
सुनवाई की तारीख/ Date of hearing : 12.08.2021  
घोषणा की तारीख /Date of Pronouncement : 30.08.2021

**आदेश /O R D E R**

**PER DUVVURU RL REDDY, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 15, Chennai dated 28.02.2019 relevant to the assessment year 2014-15. Besides challenging the confirmation of addition in the grounds of appeal, the Id. Counsel for the assessee has mainly challenged the ex-parte appellate order.

2. The above appeal is filed with a delay of 27 days, for which, the assessee has filed a petition in support of an affidavit for condonation of the delay, to which; the Id. DR has not raised any serious objection.

Consequently, since the assessee was prevented by sufficient cause, the delay of 27 days in filing of the appeal stands condoned and the appeal is admitted for adjudication.

3. Brief facts of the case are that the assessee filed its return of income for the assessment year 2014-15 on 30.11.2014 declaring an income of ₹.1,01,86,350/-. The return was taken up for scrutiny and notice under section 143(2) of the Income Tax Act, 1961["Act" in short] was issued and served on the assessee. Since the AR of the assessee could file only part of the details called for as the Managing Director of the assessee company was hospitalized, the assessment was completed on the basis of materials available on record and based on the information gathered during a survey under section 133A of the Act conducted at the business premises of the assessee under section 143(3) of the Act by assessing the total income of the assessee at ₹.1,84,95,365/- after making addition. On appeal, since there was no representation from the assessee, the Id. CIT(A) concluded the appellate order by confirming the addition.

4. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that during the course of assessment proceedings, the AR of the assessee could not produce complete details due to non-availability of M.D. of the assessee company on

medical grounds; the assessment order itself is an ex parte order. It was further submission, that since the assessee was not given sufficient opportunities of being heard during the course of appeal proceedings, the Id. Counsel for the assessee prayed for suitable directions.

5. Per contra, the Id. DR has submitted that the assessee did not furnish any evidence to controvert the findings of the Assessing Officer. It was further submission that the assessee kept on seeking adjournment and therefore, the appeals has to be decided on merits. Despite notice of final hearing was duly served by post as well as by email, the assessee neither appeared nor furnished written submissions with supporting documents before the Id. CIT(A) and thus, pleaded for confirming the appellate order.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. As it is stated in the assessment order that the AR could file only part of the details called for as the Managing Director was hospitalized and also due to few other reasons, and based on the survey under section 133A of the Act, the Assessing Officer worked out the gross receipts on the details gathered during survey and completed the assessment without any explanations from the assessee. On appeal, the Id. CIT(A) has stated that final opportunity of hearing to the assessee to file the information was given on 22.02.2019 and it was duly

served by post as well as by email. But, the assessee neither appeared nor furnished written submissions with supporting documents. However, no details of opportunities given to the assessee to represent the case are available in the appellate order. In the absence of any detailed reply from the assessee, the Id. CIT(A) concluded the appellate order with the available materials on record and confirmed the addition. In view of the above facts and circumstances, we are of the opinion that the assessee should be given one more opportunity of being heard to represent its case. Accordingly, we set aside the appellate order and direct the Id. CIT(A) to afford an opportunity of being heard to the assessee to represent the case and thereafter conclude the appellate order in accordance with law. The assessee is also directed to file complete details before the Id. CIT(A).

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

Order pronounced on the 30<sup>th</sup> August, 2021 in Chennai.

Sd/-  
[जी. मंजुनाथा, लेखा सदस्य]  
(G. MANJUNATHA)  
ACCOUNTANT MEMBER

Sd/-  
[धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य]  
(DUVVURU RL REDDY)  
JUDICIAL MEMBER

Chennai, Dated, 30.08.2021

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.