

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' 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.1617/Chny/2019  
निर्धारण वर्ष/Assessment Year: 2012-13

M/s. Banyan Projects India Pvt. Ltd.,  
No. 2, First Street, Haddows Street,  
Nungambakkam, Chennai 600 006.  
**[PAN:AADCB6525D]**

(अपीलार्थी/Appellant)

The Deputy Commissioner of  
Income Tax,  
Corporate Circle – 1(2),  
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : None  
प्रत्यर्थी की ओर से/Respondent by : Shri M. Rajan, CIT  
सुनवाई की तारीख/ Date of hearing : 26.10.2021  
घोषणा की तारीख /Date of Pronouncement : 28.10.2021

**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)-8, Chennai dated 27.01.2020 relevant to the assessment year 2013-14. Besides challenging the exparte order, the assessee has also agitated that the Id. CIT(A) has not adjudicated the issues on merits.

2. Brief facts of the case are that the assessee filed its return of income for the assessment year 2012-13 on 30.09.2012 claiming loss of ₹.1,57,46,139/- After following due procedure, the Assessing Officer completed the scrutiny assessment under section 143(3) of the Income Tax Act, 1961 ["Act" in short]

on 23.03.2015 by converting the loss into income of the assessee at ₹.1,95,48,861/- after disallowing ₹.1,35,000/- for non-deduction of TDS applying section 40(a)(ia) of the Act and disallowing an amount of ₹.3,51,60,000/- under section 68 of the Act as the loan amount from the Directors/relatives were not supported with evidences, confirmation and lack of filing of the ledger copies. Later on, the Assessing Officer found that an amount of ₹.14,32,12,425/- was claimed as share application money pending allotment. The same was ₹.9,72,16,558/- as on 31.03.2012. This entire amount had been funded by relatives and friends of (shareholders) Directors only. This amount has been kept pending for a long time. It had also been proposed by the company to treat this share application money by applying section 74 read with section 20 of the Companies Act, 2013 i.e., either to allot or to return back. This had not been done till date. In order to assess this amount as unaccounted investment, notice under section 148 of the Act was issued on 31.03.2017 and duly served on the assessee. After considering the explanations of the assessee, the reassessment under section 143(3) r.w.s. 147 of the Act was completed by recomputing the total assessed income of the assessee at ₹.16,27,63,286/-. On appeal, the Id. CIT(A) confirmed the assessment order since the assessee has neither filed any written arguments to substantiate the grounds for taking a decision nor availed of various opportunities afforded to the assessee.

3. On being aggrieved, the assessee is in appeal before the Tribunal. When the appeal was taken up for hearing, none appeared before us on behalf of the

assessee despite service of notice (RPAD on record). Therefore, we proceed to dispose of this appeal, after hearing the Id. DR.

4. We have heard the Id. DR, perused the materials available on record and gone through the orders of authorities below. In the grounds of appeal before the Tribunal, the assessee has agitated the exparte order of the Id. CIT(A) without adjudicating the issues on merits. Before the Tribunal, the assessee has not filed any vakalat/power of attorney in favour of the Chartered Accountant or Advocate to represent its case before the Tribunal nor did the assessee put appearance despite service of notice of hearing [RPAD on record]. However, the AR of the assessee filed a synopsis, which reads as under:

*“The appeal is decided ex-parte by learned Commissioner of Income-Tax (Appeals) for non-prosecution and the matter has not been dealt on merits also. It can be noticed from the page no. 3 of the CIT(A) order that on the first two occasions 18.12.2018 and 18.01.2019, the notices were unserved. The notice dated 12.12.2019 also was not served on us. However, an adjournment was sought on 25.02.2019 and the appeal was posted for hearing on 15.03.2019. Due to ill health of the assessee, no action was taken on that date. The paper book containing 3 pages is enclosed which shows that the Medical Certificate issued by the Doctor. Hence, it is prayed that the appeal may be remanded back to the learned Commissioner of Income-Tax (Appeals) for one final opportunity to make the submissions in this regard as there was a genuine cause for not attending the hearing on 15.03.2019. Considering the above submissions, it is prayed that the Hon’ble Bench be pleased to allow the appeal”.*

4.1 Considering the above prayer of the assessee and in order to meet the ends of natural justice, we are of the opinion that the assessee may be granted one more opportunity for producing complete details along with supporting documents to substantiate its claim. Accordingly, we set aside the appellate

order and remit the matter back to the file of the Id. CIT(A) to adjudicate the issues after examining the details as may be furnished by the assessee. The assessee is also directed to furnish complete details and other relevant documents as may be required by the Id. CIT(A) for concluding the appellate order, failing which, the assessment already completed and confirmed by the Id. CIT(A) stands sustained.

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

Order pronounced on the 28<sup>th</sup> October, 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, 28.10.2021  
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.