

आयकर अपीलीय अधिकरण
मुंबई पीठ "बी" मुंबई
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री एम.बालागनेश, लेखा सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI M.BALAGANESH, ACCOUNTANT MEMBER
आअसं. 3378/मुं/2019 (नि. व.2014-15)
ITA No. 3378/MUM/2019 (A.Y.2014-15)

Bhagirathi Transcorpo Pvt. Ltd.
2/37, Parisharam CHSL,
Datta Pada, Rajendra Nagar,
Borivali (East), Mumbai-400066.

PAN: AADCB7436K

..... अपीलार्थी /Appellant

बनाम Vs.

DCIT-12(1)(2),
Room No. 262, Aayakar Bhavan,
M.K. Road, Mumbai-400020

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : None

प्रतिवादी द्वारा/Respondent by : Sh. Tharian Oommen

सुनवाई की तिथि/ Date of hearing : 08/07/2021

घोषणा की तिथि/ Date of pronouncement : 30/09/2021

आदेश/ ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against an ex-parte order of Commissioner of Income Tax (Appeals)-20, Mumbai [hereinafter referred to as 'the CIT(A)'] dated 29.03.2019 for Assessment Year (AY) 2014-15.

2. The brief facts of the case as emanating from records are: The assessee is engaged in providing Buses and Cars on hire contract. In scrutiny assessment proceedings, the Assessing Officer (AO) made following disallowance/additions:

- | | |
|--|-----------------|
| i. Disallowance under section 40(a)(ia) of the Act | Rs. 86,67,039/- |
| ii. Disallowance of interest under section 36(1)(iii) of the Act | Rs. 14,00,000/- |
| iii. Disallowance under section 14A of the Act. | Rs. 1,727/- |

Aggrieved by the assessment order dated 23.12.2016, the assessee filed appeal before the CIT(A). The First Appellate Authority issued notices to the assessee (physical notices/notice through email). Since, the assessee failed to respond to the said notices, the CIT(A) in an ex-parte proceeding dismissed the grounds raised in the appeal by the assessee. Hence, the present appeal.

3. In appeal before the Tribunal, apart from challenging addition/disallowance confirmed by the CIT(A), the assessee has prayed for remanding the matter back to the file of AO. In statement of facts, the assessee has pointed that the grounds raised in the present appeal challenging disallowance of interest under section 36(1)(iii) and disallowance made under section 40(a)(ia) has been decided by the Tribunal in assessee's appeal for AY 2012-13. A copy of the order in ITA No. 6027/Mum/2016 for AY 2012-13 decided on 21.12.2018 has been placed on record.

4. A perusal of the impugned order reveals that the CIT(A) has issued physical notice to the assessee on two occasion i.e. 13.09.2017 & 28.09.2017, thereafter, the CIT(A) issued notice to the assessee on the email address furnished in Form-35 on three occasions i.e. dated 12.03.2019, 19.03.2019 & 26.03.2019, however, the assessee failed to respond to any of the notices.

5. Taking into consideration entire facts, we deem it appropriate to restore the issues raised in appeal to the file of AO. The AO after ascertaining parity of facts in two assessment years i.e. AY 2012-13 & 2014-15 shall re-examine disallowances made in the light of order of Tribunal in the case of assessee in ITA No. 6027/Mum/2016 (supra). The AO shall grant reasonable opportunity of hearing to the assessee, in accordance with law.

6. In the result, impugned order is set-aside and appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on **Tuesday**, the **30th** day of September, 2021.

Sd/-

(M. BALAGANESH)

लेखा सदस्य/ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/Dated:30/09/2021

S.K., PS

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.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)
ITAT, Mumbai