

IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI

BEFORE SHRI G.S. PANNU (HON'BLE PRESIDENT)
AND
SHRI SAKTIJIT DEY (HON'BLE JUDICIAL MEMBER)

I.T.A. No.2929/Mum/2018
(Assessment year1999-2000)

Shalini Exports Pvt Ltd Ganesh Nagar , Room no.1, Shivaji Nagar, Thane (West)-400 607 PAN ; AAFCS7019F	vs	ITO, Wd.3(3), Mumbai (Formerly ACIT (OSD) Rg-3(3), Mumbai
APPELLANT		RESPONDENT

Appellant by	Shri Dharmesh Shah & Dhaval Shah, AR
Respondent by	Shri Salil Mishra, DR

Date of hearing	18-11-2021
Date of pronouncement	16-12-2021

ORDER

Per Bench

This is an appeal by the assessee against order dated 27-01-2004 of learned Commissioner of income Tax (Appeals)-XXXII, Mumbai for the assessment year 1999-2000.

2. Effective grounds raised by the assessee, are as under:-

"1. The Ld. Commissioner of Income-Tax (Appeals) has erred in law and facts in dismissing the appeal of the appellant.

2. The Ld. Commissioner of Income-Tax (Appeals) has erred in law and facts in not granting sufficient opportunity of hearing and not complying with the principles of natural justice.

3. The Ld. Commissioner of Income-Tax (Appeals) has erred in law and facts in confirming the addition of Rs. 10,85,55,120/- on account of alleged revenue from operating the telephone connections and misuse of IPCL Lines.

4. The Ld. Commissioner of Income-Tax (Appeals) has erred in law and facts in confirming the disallowance of deduction u/s. 80HHE of the Act on the assessed income.”

3. Briefly the facts are, the assessee is a resident company. For the assessment year under dispute, assessee had filed its return of income on 31-03-2009 declaring total income of Rs.30 lakhs. As observed by the assessing officer, the return of income filed by the assessee was accompanied by a computation of income only. Further, as alleged by the assessing officer, in response to queries raised, the assessee did not furnish any details. Therefore, the assessing officer proceeded to complete the assessment to the best of his judgment. While doing so, he made addition of R.10,85,55,120/- on account of receipts from Videsh Sanchar Nigam Limited (VSNL). Against the assessment order so passed, assessee preferred appeal before learned Commissioner (Appeals). However, in an ex parte order, learned Commissioner (Appeals) dismissed the appeal of the assessee.

4. We have heard Shri Dharmesh Shah, learned authorized representative of the assessee and Shri Salil Mishra, learned departmental representative.

5. The limited grievance of the assessee before us is to the effect that learned Commissioner (Appeals) has decided the appeal ex parte without affording reasonable opportunity of being heard to the assessee. Further, it was submitted, because of ex parte disposal of the appeal before the first appellate authority and lack of proper representation before the assessing officer, supporting evidence could not be furnished resulting in addition made on purely estimate basis.

6. Having considered rival submissions, it is noticed that due to non compliance by the assessee to queries raised, assessment was completed to the best of judgment and receipts from VSNL was worked out on more or less

estimate basis. It is also a fact on record that learned Commissioner (Appeals) has disposed of the appeal ex parte sustaining the addition made by the assessing officer. On perusal of impugned order of learned Commissioner (Appeals) and other materials on record, we are of the view that interest of justice would be best served, if one more opportunity is granted to the assessee to establish its case before the departmental authorities with proper compliance and supporting evidence. In view of the aforesaid, we are inclined to set aside the impugned order of learned Commissioner (Appeals) and restore the issues back to his file for de novo adjudication after providing proper and reasonable opportunity of being heard to the assessee. The assessee is also directed to make proper compliance and co-operate in finalizing the proceeding. Grounds are allowed for statistical purposes.

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

Order pronounced on 16/12/2021.

Sd/-

Sd/-

(G.S. PANNU)	(SAKTIJIT DEY)
PRESIDENT	JUDICIAL MEMBER

Mumbai, Dt : 16/12/2021

Pavanan

Copy to :

1. Appellant
2. Respondent
3. The CIT concerned
4. The CIT(A)
5. The DR, ITAT, Mumbai
6. Guard File

/True copy/

By Order

Asstt. Registrar, ITAT, Mumbai