

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'A' BENCH, KOLKATA
{VIRTUAL COURT HEARING}**

(Before Shri Aby T. Varkey, Hon'ble Judicial Member & Shri Girish Agrawal, Hon'ble Accountant Member)

ITA No. 28/Kol/2020
Assessment Year: 2013-14

Ashoka Creations Pvt. Limited.....Appellant
204 Eastern Building
19, R.N. Mukherjee Road
Kolkata - 700 001
[PAN : AACCA 4333 K]

Vs.

Income Tax Officer, Ward-4(3), Kolkata.....Respondent

Appearances by:

None, appeared on behalf of the assessee.

Shri Biswanath Das, Addl. CIT, Sr. D/R, appearing on behalf of the Revenue.

Date of concluding the hearing : February 2nd, 2022

Date of pronouncing the order : February 23rd, 2022

ORDER

Per Girish Agrawal, Accountant Member:-

This appeal filed by the assessee is directed against the order of the Learned Commissioner of Income Tax (Appeals) - 13, Kolkata, (hereinafter the 'Ld. CIT(A)'), dt. 30/12/2019, passed *ex-parte*, whereby he dismissed the appeal of the assessee for non-prosecution.

2. None appeared before us on behalf of the assessee.

3. As per the Ld. Assessing Officer (AO), the assessee in the present case filed its return of income on 29/09/2013 declaring total income of Rs. 8,31,710/-. Later, the case of the assessee was selected for scrutiny through CASS (on the ground 'large other expenses claimed in P and L a/c'). The Ld. AO after issuing statutory notices u/s 143(2) and 142(1) of the Income-tax Act, 1961 (the Act) asked the assessee to explain the other expenses to the tune of Rs. 13,21,99,419/- which were debited in the profit and loss account. However, according to the Ld. AO, there was no response on the part of the assessee despite several reminders and therefore, the Ld. Assessing Officer proceeded to make an addition of Rs. 1,11,24,242/- treating it as bogus expenses.

4. Aggrieved, the assessee preferred an appeal before the Ld. CIT(A) who was pleased to uphold the additions made by the Ld. AO.

5. Aggrieved by the aforesaid order of the Ld. CIT(A), the assessee is in appeal before us.

6. As noted, none appeared on behalf of the assessee before us. However, on perusal of records before us and the facts discussed (supra), according to us, the assessee ought to have been given proper opportunity to explain the facts as held by the Apex Court in the case of Tin Box Co. v. Commissioner of Income-tax [2001] 249 ITR 216 (SC) that *order must be made after the assessee has been given a reasonable opportunity of setting out his case*. Accordingly, considering the records before us, facts discussed above and the decision of Apex Court, we find it fair and proper in the interest of justice to set aside the impugned order passed *ex-parte* by the ld. CIT(A) and restore the matter back to the file of the ld. CIT(A) with a direction to decide the same afresh on merits after providing reasonable opportunity of being heard to the assessee. The assessee is also directed to be diligent and make its submissions to enable him to expeditiously adjudicate the appeal.

7. **In the result, the appeal of the assessee is treated as allowed for statistical purposes.**

Kolkata, the 23rd day of February, 2022.

Sd/-
[Aby T. Varkey]
Judicial Member

Dated: 23.02.2022
{SC SPS}

Sd/-
[Girish Agrawal]
Accountant Member

Copy of the order forwarded to:

- 1. Ashoka Creations Pvt. Limited**
204 Eastern Building
19, R.N. Mukherjee Road
Kolkata - 700 001
- 2. Income Tax Officer, Ward-4(3), Kolkata**
3. CIT(A)-
4. CIT- ,
5. CIT(DR), Kolkata Benches, Kolkata.

True copy
By order

Assistant Registrar/DDO
ITAT, Kolkata Benches