

IN THE INCOME TAX APPELLATE TRIBUNAL
“E” BENCH, MUMBAI
BEFORE SHRI PRASHANT MAHARSHI, ACCOUNTANT MEMBER &
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 7819/Mum/2019
(A.Y: 2013-14)

Schema Enterprises Pvt Ltd, 7 th Floor, Soham House, Hari Om Nagar, EE Highway, Mulund (E), Mumbai – 400 081.	Vs.	DCIT -2(1) Room No. 1007, 10 th Floor, Old CGO Annexe, Maharishi Karve Road, Mumbai – 400020.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAMCS4977K		
Appellant	..	Respondent

Appellant by :	Mr.Shashi Bekal.AR
Respondent by :	Mr.Mahesh Jiwade.DR

Date of Hearing	06.01.2022
Date of Pronouncement	07.01.2022

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The assessee has filed the appeal against the order of the CIT(A)-48, Mumbai passed u/s 143(3) r.w.s 153C of the Act. The assessee has raised the following grounds of appeal:

1. On the facts and circumstances of the case and law on the subject the Ld. CIT(A) erred in passing the order u/s 143(3) r.w.s 153C without giving any opportunity to the assessee for submitting his grounds.

2. On the facts and circumstances of the case law on the subject the Ld. CIT(A) erred in upholding the disallowance of bogus purchase of Rs. 56,34,244/- to the returned income by the AO. The addition be deleted.
3. On the facts and circumstances of the case and law on the subject the Ld. CIT(A) erred in upholding the addition by AO of Rs. 7,41,12,000/- u/s 68 on account of money to the returned income. The addition made be deleted.
4. The appellant craves leave to add modify, delete the grounds of appeal on or before date of hearing.

2. The Brief facts of the case are that, the assessee is engaged in the business as builder and developer. The assessee has filed the return of income for the A.Y 2013-14 on 29.09.2013 disclosing a loss of Rs.35,247/-. A search and seizure operations u/s 132 of the Act was carried out in the assessee group companies and the survey u/sec133A of the Act on the assessee premises. Some projects are under taken by the assessee and information was found in the course of the search and the A.O has issued notice u/s 153C of the Act on the assessee. In compliance, the assessee has filed the return of income

on 26.10.2017 declaring a loss of Rs.35,247/- Subsequently, the A.O. has issued notice u/s 143(2) and 142(1) of the Act along with questionnaire, in compliance the Ld AR of the assessee appeared from time to time and furnished the details as called for. The A.O found that the assessee has entered into bogus transactions and could not substantiate with the proper evidence and explanations on the genuineness and made addition of bogus purchase of Rs.56,34,244/-. Further the A.O. has observed that the assessee has received on money and made an addition of Rs.7,14,12,000/-. Finally the A.O. has assessed the total income of Rs.7,97,46,244/- and passed the order u/s 143(3) r.w.s 153C of the Act on 30.12.2017. Aggrieved by the order, the assessee has filed an appeal with the CIT(A) and the CIT(A) has confirmed the additions and passed a ex parte order. Aggrieved by the CIT(A) order, the assessee has filed an appeal with the Honble Tribunal.

3. At the time of hearing, the learned Counsel for the assessee submitted that the Ld.CIT(A) has passed an ex parte for non prosecution of appeal and prayed for an opportunity of hearing to substantiate the case on merits with the evidences before the appellate authority. Contra, the Ld. DR supported the order of the CIT(A).

4. We heard the rival submissions and perused the material on record. Prima-facie the CIT(A) has passed the ex-parte order considering the fact that there is no appearance nor any submissions are filed by the assessee in spite of providing adequate opportunity of hearing. Therefore, the CIT(A) was of the opinion that the assessee is not interested in prosecuting the appeal and dismissed the appeal ex-parte confirming the action of the assessing officer. We on perusal of the CIT(A) found that the Ld.CIT(A) has issued the notices of hearing, but there was no response and thus the Ld.CIT(A) came to a conclusion that the assessee is not inclined to prosecute the appeal.

5. We find that the assessee has raised grounds of appeal challenging the additions by the A.O. and there could be various reasons for non appearance which cannot be overruled. We considering the principles of natural justice shall provide one more opportunity of hearing to the assessee to substantiate the case along with evidences and information. Accordingly, we set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the

information for early disposal of appeal and allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 07.01.2022.

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 07.01.2022

KRK, PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

(Asst. Registrar)
ITAT, Mumbai