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

BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER &
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No.1711/Mum/2019

(A.Y: 2012-13)

| M/s Etisalat DB Telecom Pvt Ltd., In Liquidation<br>The Official Liquidator, 5th Floor, Bank of India Bldg, MG Road, Mumbai – 400023. | Vs. | DCIT (TP) – 2(1)(1)<br>Room No. 14, 20th Floor, Air India Bldg, Mumbai – 400020. |
|---|---|---|
| स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAKCS0136Q | | |
| Appellant | .. | Respondent |

| Appellant by : | Shri. Hiro Rai.AR |
|---|---|
| Respondent by : | Shri. Satya Pinisetty.DR |

| Date of Hearing | 01.12.2021 |
|---|---|
| Date of Pronouncement | 02.12.2021 |

आदेश / O R D E R

**PER PAVAN KUMAR GADALE JM:**

The assessee has filed the appeal against the order of the Commissioner of Income Tax (Appeals)-20, Mumbai, passed u/s 271G and 250 of the Income Tax Act, 1961. The assessee has raised the following grounds;

*"1. The Ld. CIT(A) was not justified in passing an ex-parte order. He has failed to consider and appreciate the request for adjournment filed before him.*

*2. The Ld. CIT(A) was not justified in confirming the levy*

*of the Penalty u/s 271G of Rs. 62,26,443/-. He has failed to appreciate that the notice regarding the penalty and also the order levying the penalty were illegal, unjustified and unwarranted.*

*3. The appellant craves leave to add to, to alter or to amend the above grounds of appeal.*

2. 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).

3. 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 levy of penalty by 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.

4. We find that the assessee has raised grounds of appeal challenging the levy of penalty 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 statistical purposes.

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

Order pronounced in the open court on 02.12.2021.

| Sd/- | Sd/- |
|---|---|
| (PRASHANT MAHARISHI) | (PAVAN KUMAR GADALE) |
| **ACCOUNTANT MEMBER** | **JUDICIAL MEMBER** |

Mumbai, Dated 02.12.2021

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