

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री गिरीश अग्रवाल, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: **820/CHNY/2020**
निर्धारण वर्ष /Assessment Year: 2004-05

M/s. Youvan Cosmeceutical,
No.8, Sterling Second Cross
Street, Nungambakkam,
Chennai – 600 034.

The ACIT,
v. Non-Corporate Circle-3(1),
Chennai.

PAN: AAFY 4464A

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri S. Sridhar, Advocate
: Shri M. Rajan, CIT

सुनवाई की तारीख/Date of Hearing

: 01.03.2022

घोषणा की तारीख/Date of Pronouncement

: 03.03.2022

आदेश /O R D E R

PER MAHAVIR SINGH, VP:

This appeal by the assessee is arising out of the order of learned Commissioner of Income Tax (Appeals)-4, Chennai in ITA No.188/17-18/A.Y.2004-05/CIT(A)-4 dated 16.09.2020. The assessment was framed by the ACIT, Circle XV, Chennai for the assessment year 2004-05 u/s.143(3) of the Income Tax Act, 1961 (hereinafter 'the Act'), vide order dated 28.12.2006.

2. At the outset, we noticed that the second ground raised by the assessee is in regard to the order of CIT(A) passing ex-parte order without assigning any reason or justification and in violation of principles of natural justice. The relevant ground raised by assessee reads as under:-

“2. The CIT(Appeals) erred in passing the order exparte without assigning proper reasons and justifications and ought to have appreciated that any order passed in violation of the principles of natural justice should be reckoned as bad in law.”

3. At this point, the Id.counsel for the assessee Shri S. Sridhar took us through the order of CIT(A) and the CIT(A) has decided the appeal ex-parte for non-appearance. The Id.counsel for the assessee stated that the CIT(A) has not adjudicated the issue on merits despite the fact that the Tribunal in earlier round also set aside the order of CIT(A) vide order in ITA No.3002/Chny/2018, dated 01.08.2019. When this was brought to the notice of Id. CIT-DR, he stated that various opportunities were given to the assessee to represent its case but assessee has not availed the opportunity but rather asked adjournments on various grounds. The Id.CIT-DR further stated that ample opportunities are given then the CIT(A) has no option to decide the appeal ex-parte. On further query, whether the matter is decided on merits by Id.CIT(A), the Id.CIT-DR

could not answer and stated that the matter is not decided on merits.

4. After hearing rival contentions and going through the facts of the case, we are of the view that this being a statutory appeal the CIT(A) is duty bound to decide the appeal on merits even though, he decides ex-parte. As the CIT(A) has not passed the order on merits, we set aside the order of CIT(A) and remit the matter back to his file for fresh adjudication. Needless to say that the CIT(A) will allow reasonable opportunity of being heard to the assessee and assessee is also directed to represent its case as and when notice is issued, otherwise adverse view can be taken against the assessee.

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

Order pronounced in the court on 3rd March, 2022 at Chennai.

Sd/-

(गिरीश अग्रवाल)

(GIRISH AGRAWAL)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 3rd March, 2022

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF. |