

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH “SMC”, MUMBAI**

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER
AND
SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER**

**ITA No.286/M/2022
Assessment Year: 2015-16**

M/s. Travel Post Pvt. Ltd., B-401, Business Suits, 9, Plot No.83, S.V. Road, Santacruz (W), Mumbai – 400 054 PAN: AABCT4381M	Vs.	Income Tax Officer, Ward-13(3)(4), 216B, 2 nd Floor, Aayakar Bhavan, M.K. Road, Mumbai - 400020
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Shri Kiran P. Unavekar, D.R.

Date of Hearing : 01 . 06 . 2022
Date of Pronouncement : 21 . 06 . 2022

O R D E R

Per : Kuldip Singh, Judicial Member:

Appellant M/s. Travel Post Pvt. Ltd. (hereinafter referred to as ‘assessee’) by filing present appeal sought to set aside the impugned order dated 27.12.2017 passed by the Commissioner of Income Tax (Appeals), Mumbai (hereinafter referred to as CIT(A)] on the grounds inter alia that:

“1. The CIT (Appeals) erred in passing the order holding that there was no compliance and that the appellant was not desirous of pursuing the appeal.

2. Without Prejudice the appellant submits that the learned CIT (Appeals) ought to have passed an order on merits and erred in dismissing the appeal.

3. Without Prejudice, the appellant submits that the Learned CIT (Appeals) erred for not considering the claim in respect prior period expenses though the Assessing Officer has accepted the fact the same are business expenditure and the business is a going concern.

4. Without Prejudice the CIT (Appeals) erred in not considering depreciation on the capital asset.

5. The Appellant craves leave to, add to, alter or vary the grounds of appeal at a before the hearing of the appeal.”

2. Briefly stated facts necessary for adjudication of the controversy at hand are : assessee is into the business of travel agent/tour operators. During the scrutiny proceedings Assessing Officer (AO) made a disallowance of Rs.21,31,484.55 paisa being the prior period and prepaid expenses claimed by the assessee on account of electricity expenses, payment of hardware lease, co location, backup and fire ball, advertisement expenses etc. AO also disallowed an amount of Rs.26,085/- debited on account of purchase of UPS/EPAVS system by treating the same as a capital item and thereby framed the assessment under section 143(3) of the Act at the total income of Rs.43,81,240/-.

3. Assessee carried the matter before the Ld. CIT(A) by way of filing appeal who has dismissed the same. Feeling aggrieved the assessee has come up before the Tribunal by way of filing present appeal.

4. Despite issuance of the notice to the assessee company none appeared on behalf of it, so the Bench decided to decide this appeal on the basis of material available on record with the assistance of the Ld. D.R. for the Revenue.

5. We have heard the Ld. Departmental Representative for the Revenue, perused the orders passed by the Ld. Lower Revenue Authorities and documents available on record in the light of the facts and circumstances of the case and case law relied upon.

6. Bare perusal of the order passed by Ld. CIT(A) goes to show that initially in response to the notice issued one Mr. Danesh Kumar Udayavar, Chartered Accountant attended the proceedings and sought the adjournment and thereafter none appeared and thereafter appeal was decided for want of prosecution on the part of the assessee.

7. We are of the considered view that when one Chartered Accountant appeared on behalf of assessee but none appeared thereafter, notice was required to be issued to the assessee before deciding the appeal. Moreover, impugned order has been passed merely on technical ground that none appeared on behalf of the 'assessee' without deciding the case on merits. Providing an adequate opportunity of being heard is a sine qua non for legally sustainable adjudication process. So to decide the issue once for all and to stop the multiplicity of the proceedings we hereby remit the present case back to the Ld. CIT(A) to decide afresh after providing opportunity of being heard to the assessee. Resultantly, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 21.06.2022.

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER
Mumbai, Dated: 21.06.2022.

Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.