

आयकर अपीलीय अधिकरण
मंबई पीठ " ई "

श्री विकास अवस्थी. न्यायिक सदस्य एवं
श्री एम बालगणेश, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "E ", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI M. BALAGANESH, ACCOUNTANT MEMBER
आअसं. 1397/मुं/2020(नि.व. 2011-12)
ITA NO. 1397/MUM/2020(A.Y.2011-12)

Embio Trading Pvt. Ltd.,
1st Floor, Jai Ambe Niwas,
P.G.Marg, Rajan Pada,
Malad (W), Mumbai 400 064.

PAN: AAACE-8302-J

..... अपीलार्थी /Appellant

बनाम Vs.

The ITO 12(2)(2),
Mumbai 400 020.

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : None

प्रतिवादी द्वारा/Respondent by : Shri Brajendra Kumar

सुनवाई की तिथि/ Date of hearing : 11/07/2022

घोषणा की तिथि/ Date of pronouncement : 11/07/2022

आदेश/ ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-20, Mumbai (in short 'the CIT(A) ') dated 20/11/2019 for the assessment year 2011-12.

2. This appeal was first listed for hearing on 24/08/2021. One Shri Ankit Namdeo represented the assessee on initial three dates of hearing i.e. on 24/08/2021, 28/09/2021 and 21/10/2021, although we do not find any Power of Attorney / Letter of Authorization from the assessee in favour of aforesaid named person. On the request of assessee on each of the said dates, the appeal was adjourned. Thereafter,

the appeal was adjourned to 02/12/2021. None appeared on behalf of the assessee on the said date. Therefore, notice was issued to the assessee through RPAD on the address mentioned in Form No.36 and the appeal was adjourned to 06/01/2022. On the said date again none appeared to represent the assessee and the appeal was adjourned to 16/02/2022. Similar was the situation on the said date. The appeal was thereafter adjourned to 22/03/2022, 09/05/2022, 16/06/2022 and finally on 11/07/2022. On the said dates neither any Authorized Representative of the assessee appeared to assist the Bench nor any letter seeking adjournment was received from the assessee on any of the aforesaid dates. It seems that the assessee is not keen to pursue the appeal. Therefore, this appeal is taken up for hearing with the assistance of Id.Departmental Representative and material available on record.

3. The assessee in appeal has raised seven grounds. In ground No.1 to 3 of appeal, the assessee has assailed initiation of reassessment proceedings u/s 147 of the Income Tax Act, 1961 [in short 'the Act']. In ground No.4 & 5 of appeal, the assessee has assailed addition on merits. In ground No.6 and 7 of the appeal, the assessee has impugned the action of CIT(A) in deciding the appeal in ex-parte proceedings.

4. Shri Brajendra Kumar representing the Department vehemently defending the impugned order submitted that notice of hearing of appeal was given to the assessee. Despite repeated notices the assessee failed to appear before the CIT(A). Hence, the CIT(A) was constrained to decide the appeal on merits in ex-parte proceedings. The Id.Departmental Representative submitted that even before the Tribunal the assessee has abandoned the appeal as none represented on behalf of the assessee. The Id.Departmental Representative prayed for upholding the impugned order and dismissing the appeal of assessee.

5. We have heard the submissions made by Id.Departmental Representative and have examined the orders of authorities below. A perusal of the impugned order reveals that CIT(A) had listed the appeal for hearing on 16/10/2019. Therefore, it was adjourned to 24/10/2019 and 08/11/2019. Ostensibly, the notice of hearing of appeal was sent to the assessee through e-mail. Despite notice, the assessee failed to appear before the CIT(A). Since, the assessee failed to comply with the notice, the CIT(A) decided the appeal in ex-parte proceedings vide impugned order. Taking into consideration entirety of facts, we deem it appropriate to grant one more opportunity to the assessee to defend its appeal before the CIT(A). Without commenting on merits of the addition or validity of reassessment proceedings, we restore this appeal of assessee back to the file of CIT(A) for denovo adjudication after affording reasonable opportunity of hearing/ for making submissions to the assessee, in accordance with law.

6. The assessee is directed to appear before CIT(A) /make submissions after service of notice. The assessee shall co-operate with CIT(A) in First Appellate proceedings and make endeavour for an early disposal of the appeal.

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

Order pronounced in the open court on Monday the 11th day of July, 2022.

Sd/-

(M. BALAGANESH)

लेखाकार सदस्य/ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/Dated 11/07/2022
Vm, Sr. PS(O/S)

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
6. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar) /
Sr.Private Secretary
ITAT, Mumbai