

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “D” DELHI**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.1750/DEL/2017
Assessment Year 2010-11

Kyocera Document Solutions India Pvt. Ltd., 2 nd Floor, Tower C, Centrum Plaza, Golf Course Road, Sector 53, Gurgaon.	v.	Assistant Commissioner of Income Tax, Circle-5(1), Delhi.
TAN/PAN: AADCK3138R		
(Appellant)		(Respondent)

Appellant by:	None
Respondent by:	Shri M.K. Jain, Sr.DR
Date of hearing:	23 06 2022
Date of pronouncement:	18 07 2022

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Appeals)-V, New Delhi [‘CIT(A)’ in short] dated 30.01.2015 arising from the assessment order dated 31.01.2014 passed by the Assessing Officer (AO) under Section 143(3) r.w. Section 92CA of the Income Tax Act, 1961 (the Act) concerning AY 2010-11.

2. When the matter was called for hearing, none appeared for the assessee. It is seen from the record that multiple opportunities have been given to the assessee to attend the proceedings but none appeared in any of these proceedings. Consequently, having regard to the continued indolence shown, we are constraint to presume

that the assessee is not interested in pursuing the appeal. Accordingly, the impugned appeal is proceeded *ex-parte*.

3. As per its grounds of appeal, the assessee has challenged the rectification order passed by the CIT(A) under Section 154 of the Act. The rectification order of the CIT(A) reads as under:

“Order under Section 154

Kindly refer to your application u/s. 154 dated 16.02.2015 in respect of the appellate order for A.Y. 2010-11 in which you claimed to have raised additional ground of appeal. It is noted from your application that the impugned order is not a speaking order. In fact, therefore, your application requires reconsideration of the entire matter and is not covered under the purview of mistake apparent from record. Your application is thus rejected.”

4. On perusal of the order, it is noticed that the assessee is stated to have raised additional grounds of appeal before the CIT(A). The assessee has moved a rectification application on the ground that the appellate order is not a speaking order on the issue involved, i.e., amount of Rs.9,70,198/- written back in Assessment Year 2010-11 out of provisions for advertisement subsidy and included in income for Assessment Year 2010-11. It was the case of the Assessee before CIT(A) that amount written back by the Assessee is not chargeable to tax on the ground that such income denotes write back of advertisement subsidy payable out of provisions for advertisement subsidy created in Assessment Year 2009-10 and the deduction for said provision has not been allowed in Assessment Year 2009-10 when it was created. The CIT(A) has disposed of the rectification application against the assessee on

the ground that such alleged error requires reconsideration of the entire matter and cannot be bracketed in the category of mistake apparent from record.

5. We endorse the view taken by the CIT(A) on the touchstone of limited scope of Section 154 of the Act. In the absence of relevant facts emerging from records corroborated by documentary evidences, one cannot say that the income included by the assessee itself should be excluded for the purposes of computation. It is not known from the record that any such disallowance was carried out in the preceding assessment year 2009-10 while determining the taxable income of the assessee. The error committed thus cannot be bracketed in the league of 'apparent error' contemplated under Section 154 of the Act. We thus see no reason to interfere with the order of the CIT(A).

6. In the result, the appeal of the assessee is dismissed *ex-parte*.

Order pronounced in the open Court on 18/07/2022.

Sd/-
[CHANDRA MOHAN GARG]
JUDICIAL MEMBER

DATED: /07/2022

Prabhat

Sd/-
[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER