

आयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No.499/Chny/2022
(निर्धारण वर्ष / Assessment Year: 2009-10)

M/s. Vaishnovi Infrastructure Engineering Pvt. Ltd. GST Road, NH-45, Kallabhiranpuram, Madhuranthakam Taluk, Kanchipuram District – 603 308.	बनाम/ Vs.	ACIT, Company Circle-3(4), Chennai.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AACCV-1758-P		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri Shrenik Chordia (C.A) – Ld. A.R
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri Ravindra T. Mishra (JCIT) – Ld. DR
सुनवाई की तारीख/ Date of Hearing	:	21-07-2022
घोषणा की तारीख / Date of Pronouncement	:	21-07-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2009-10 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 19-04-2022 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 27-12-2011. The grounds taken by the assessee are as under:

1. The order of the Learned Commissioner of Income Tax (Appeals) is contrary to the law, facts and circumstances of the case.

2. For that the Learned Commissioner of Income Tax (Appeals) erred in dismissing the appeal by placing reliance upon the decision of Hon'ble ITAT, Delhi Bench in the case of CIT v. Multiplan India Private Limited, wherein the appeal was dismissed by the Hon'ble Tribunal for the want of persuasion.

3. For that the Learned Commissioner of Income Tax (Appeals) erred in passing an ex-parte order dismissing the appeal without discussing the issues raised in Grounds of Appeal based on the material available on record.

4. For that the Learned Commissioner of Income Tax (Appeals) erred in indirectly confirming the addition of a sum of Rs. 1,00,87,747/- relating to unsecured creditors.

5. For that the Learned Commissioner of Income Tax (Appeals) erred in indirectly confirming the disallowance of Rs.2,33,44,5097- u/s 40(a)(ia) of the Act.

6. For that the Learned Commissioner of Income Tax (Appeals) erred in indirectly confirming the disallowance of 20% of the following expenditure claimed which was disallowed by AO for not furnishing the vouchers:

Expenditure	20% Disallowed (in Rs)
Repairs & Maintenance	2,32,9887-
Selling & Admin Expenses	66,39,5447-
Employee Welfare Expenses	23,11,2797-
Freight Outward Charges	18,97,6547-

For these grounds and such other grounds that may be adduced before or during the hearing of the appeal, it is prayed that the Hon'ble Tribunal may be pleased to set aside the Order of CIT(A) and remit the issues to the file of Assessing Officer and/or provide such relief as this Hon'ble Tribunal may deem fit.

As evident, the assessee is aggrieved by confirmation of certain additions.

2. The Ld. AR, drawing attention to the orders of lower authorities, pleaded for another opportunity of hearing whereas Ld. Sr. DR pleaded for dismissal of the appeal on the ground that the assessee failed to make any representation before Ld. CIT(A). Having heard rival submissions, our adjudication would be as under.

3. Upon perusal of assessment order, it could be seen that the assessee was saddled with various additions and disallowances. The income determined by Ld. AO at Rs.446.66 Lacs. Though the

assessee preferred further appeal but the assessee failed to file any submissions despite various opportunities as noted in para-2 of the impugned order. Therefore, the appeal was dismissed for non-prosecution. Aggrieved, the assessee is in further appeal before us.

4. Though we concur with the submissions of Ld. Sr. DR that the assessee has remained negligent before lower authorities, however, keeping in view the principle of natural justice, we set-aside the impugned order and remit the matter back to the file of Ld. CIT(A) for adjudication by way of speaking order after affording adequate opportunity of hearing to the assessee.

5. The appeal stand allowed for statistical purposes.

Order pronounced on 21st July, 2022.

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / VICE PRESIDENT

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 21-07-2022

EDN/-

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

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