

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'B' BENCH, KOLKATA**

**Before Shri Manish Borad, Accountant Member
&
Shri Sonjoy Sarma, Judicial Member**

**I.T.A. No. 27/KOL/2019
Assessment Year: 2009-2010**

***M/s. Innova Tie Up Private Limited,.....Appellant
29B, Rabindra Sarani, 4th Floor,
Room No. 433A, Kolkata-700073
[PAN: AABCI9438A]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-12(3), Kolkata,
Aayakar Bhawan ,
P-7, Chowringhee Square,
Kolkata-700069***

Appearances by:

None, for the Appellant

Shri Sudipta Guha, CIT, D.R., for the Respondent

Date of concluding the hearing : August 11, 2022

Date of pronouncing the order : August 11, 2022

O R D E R

Per Manish Borad, Accountant Member:-

This appeal at the instance of assessee for assessment year 2009-10 is directed against the order of ld. Commissioner of Income Tax (Appeals)-16, Kolkata dated 29.11.2018, which is arising out of the order under section 144/263/143(3)/147 of the Act on 11.03.2015 framed by Income Tax Officer, Ward-12(2), Kolkata.

2. When the case was called for hearing, none appeared on behalf of the assessee. Notice of hearing sent by Registered Post is returned 'unserved'. It was, therefore, decided to hear the appeal *ex-parte qua* the assessee with the assistance of ld. D.R.

3. On perusal of the impugned order, we find that the impugned order is *ex-parte* and the assessee did not appear on multiple occasions when the dates were fixed for hearing. However, the Id. CIT(Appeals) decided to dismiss the assessee's appeal without adjudicating any of the issues on merit. The finding of the Id. CIT(Appeals) reads as under:-

"Since there is no compliance on the part from appellant during the appellant proceedings, I have no other alternative but to complete the case on the basis of material available on record. As there is no new fact/details available for consideration and I do not find any infirmity in the AO's order. Therefore, appeal is dismissed".

4. On going through the above finding of the Id. CIT(Appeals), we find that the impugned order is not a speaking order as the Id. CIT(Appeals) has not discussed anything about the issue of share capital and share premium and other relevant issues raised in the appeal by the assessee and by giving a general observation has dismissed the appeal. Under these given facts and circumstances, we restore all the issues raised in the instant appeal to the Id. CIT(Appeals) with a direction to pass a speaking order. Further the Id. CIT(Appeals) is directed to call for the details of Company and its Directors from Ministry of Corporate Affairs so as to serve the notice of hearing to the assessee-company and its Directors. In case, assessee does not appear, the Id. CIT(Appeals) should proceed in accordance with law and decide the issues after giving finding on merits of the case.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on August 11, 2022.

Sd/-
(Sonjoy Sarma)
Judicial Member

Sd/-
(Manish Borad)
Accountant Member

Kolkata, the 11th day of August, 2022

- Copies to :*
- (1) ***M/s. Innova Tie Up Private Limited,
29B, Rabindra Sarani, 4th Floor,
Room No. 433A, Kolkata-700073***
 - (2) ***Income Tax Officer,
Ward-12(3), Kolkata,
Aayakar Bhawan ,
P-7, Chowringhee Square, Kolkata-700069***
 - (3) *Commissioner of Income Tax (Appeals)-16, Kolkata,*
 - (4) *Commissioner of Income Tax- ,*
 - (5) *The Departmental Representative*
 - (6) *Guard File*

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.