

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA BENCH "C", KOLKATA**

**BEFORE SHRI RAJESH KUMAR, HON'BLE ACCOUNTANT MEMBER
AND SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER**

**ITA No.265/Kol/2021
Assessment Year: 2008-09**

Dinkar Tracon Private Limited 21B, Canning Street, Kolkata – 700 001. PAN: AACCD 5346 B	Vs.	ITO, Ward-6(3), Kolkata
(Appellant)		(Respondent)

Present for:

Appellant by : Shri Manish Tiwari, FCA
Respondent by : Smt. Ranu Biswas, ACIT, DR

Date of Hearing : 01.09.2022
Date of Pronouncement : 05.09.2022

ORDER

PER SONJOY SARMA, JM:

This appeal is preferred by the assessee against the order passed by National Faceless Appeal Centre [hereinafter referred to as 'CIT'] dated 11.03.2017 passed u/s 250 of the Income-tax Act, 1961. The assessee has taken the following grounds of appeal:

"i. That the ld. CIT(A)-17, Kolkata did not provide proper opportunity to the appellant in gross violation of the principles of natural justice.

ii. That on the facts and in the circumstances of the case as well as in law, ld. CIT(A)-17, Kolkata erred in justifying the addition of Rs. 2,13,85,000/- u/s 68 of the Income Tax Act, 1961.

iii. That the order passed by the ld. CIT(A)-17, Kolkata as well as the findings and observations made therein are wholly against the facts and the circumstances of the case.

iv. That on facts and in the circumstances of the case as well as in law the ld. CIT(A)-17, Kolkata erred in not considering the replies of the share applicants and the submission made by the appellant before the ld. Assessing Officer, whereas the case laws relied by the appellant are very much relevant and applicable to the instant case.

v. That the appellant craves to add, alter, modify and/or withdraw any of the grounds at the time of or before hearing of the appeal.”

2. At the outset, it is noted that there is a delay of 290 days on the part of the assessee in filing this appeal before the Tribunal. In this regard, the assessee has filed an application seeking condonation of the said delay and keeping in view the reasons given therein, we are satisfied that there is a sufficient cause for the delay of 290 days on the part of the assessee in filing this appeal before the Tribunal and delay in filing the instant appeal is accordingly condoned.

3. At the outset, ld. Counsel for the assessee submitted that since the assessee did not get any opportunity to appear before the ld. CIT(A) and could not file relevant documents in support of the submissions before ld. AO and one more opportunity should be given to the assessee and the issues raised in the instant appeal may be set aside to the file of ld. AO. Ld. D/R was fare enough not to oppose his request.

4. We, therefore, under the given facts and circumstances of the case, are of the considered view that since the order of the ld. CIT(A) is *ex-parte order* and no discussion has been made on the merits of the case, we, in the interest of justice, set aside the impugned order and remit it back to the file of the ld. AO for deciding the issues raised before us by way of a speaking order. We also direct the assessee to remain vigilant in receiving the notices of hearing of the ld. AO and should not request for any adjournment unless otherwise required for reasonable cause and should file all necessary documents in support of his claim so as to facilitate the ld. AO for passing the

speaking order. Needless to mention that the assessee should be given proper opportunity of being heard.

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

Order pronounced in the open court on 05.09.2022.

**Sd/-
(RAJESH KUMAR)
ACCOUNTANT MEMBER**

**Sd/-
(SONJOY SARMA)
JUDICIAL MEMBER**

Kolkata, Dated: 05.09.2022.
Biswajit, Sr. P.S.

Copy to:

1. The Appellant: Dinkar Tracon Private Limited.
2. The Respondent: ITO, Ward-6(3), Kolkata.
3. The CIT, Concerned, Kolkata
4. The CIT (A) Concerned, Kolkata
5. The DR Concerned Bench.

//True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata