

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C", MUMBAI

BEFORE SHRI PRASHANT MAHARSHI (ACCOUNTANT MEMBER) &
SMT. KAVITHA RAJAGOPAL (JUDICIAL MEMBER)

ITA 2108/Mum/2021
(Assessment year 2016-17)

M/s Iconic Chandrakant Productions Private Limited, C/o ND's Art World S.No.14/3, 15/3, 17/2, ND Studio, Chowk Phata, Karjat, Khalapur, Raigad-410 206 PAN : AABCC5497P	vs	ACIT-16(1), Mumbai 4 th Floor, Aayakar Bhavan M.K. Road, Mumbai
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Assessee represented by	Dharan Gandhi
Department represented by	Shri Nihar Ranjan Samal, Sr.AR

Date of hearing	23/06/2022
Date of pronouncement	16/09/2022

ORDER

Per Kavitha Rajagopal (JM):

This appeal has been filed by the assessee as against the order of the Ld.Commissioner of Income-tax (Appeals)-4, Mumbai dated 06/02/2020 pertaining to assessment year 2016-17.

2. During the appellate proceedings, the Ld.AR for the assessee contended that there is a delay of 40 days in filing the appeal, has to be condoned after considering the decision of the Hon'ble Supreme Court in Writ Petition (C) No.3 of 2020 judgement dated January 10, 2022 whereby the same would be covered under the Covid Protocol due to pandemic declared by the Hon'ble

Supreme Court while determining the period of limitation. The Ld.AR contended that the 40 days' delay has to be condoned for the reason that the office address in which the notices / order under section 250 were sent was closed since April, 2019 and that the registered office of the assessee was shifted in July 2019 to the new address at C/o ND's Art World, S.No.14/3, 15/3, 17/2, ND Studio, Chowk Phata, Karjat, Khalapur, Raigad-410 206.

3. The Ld.DR opposed the condonation of delay.

4. Having heard the rival parties and perused the materials on record. We deem it fit to condone the delay in filing the appeal as there was 'sufficient cause' for the delay in filing the appeal within the due date.

5. The solitary issue involved in this appeal is that the Ld.CIT(A) has erred in confirming the addition made by the Assessing Officer towards unpaid creditors of Rs.2,09,60,832/- under section 41(1) of the I.T. Act, 1961 by way of an ex parte order.

6. The brief facts are that the assessee is in the business of production of television serials and movies and also engaged in event management. The assessee company filed its return of income at Nil by claiming current year's loss at (-) Rs.1,80,91,077/-. The assessee's case was selected for scrutiny and assessment order under section 143(3) of the I.T. Act dated 23/12/2018 was passed determining total income at Rs.28,69,755/- and by making an addition of Rs.2,09,60,832/- as trading liability which ceased to exist as per the provisions of section 41(1) of the I.T. Act by treating the same as cessation of liability. The Assessing Officer has added the said amount on the ground that the same was outstanding for a long period in respect of 28 creditors, the details of which are as under:-

S.No.	Name of the Creditor	Amount
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1.	Audioarts	404496
2.	Everest Entertainment Pvt Ltd	87467
3	Film Lab (I) Pvt Ltd	495815
4.	Ganesh Octroi Services	3022
5.	Gurukrupa Caterers	186393
6.	L R Mallah	600555
7.	MKIM Catering Services	491993
8.	Morani Fireworks & Six	1080000
9.	Mukesh Cine Art Enterprises Pvt Ltd	1310853
10.	Munjali Themes-N-Occasions Pvt Ltd	6557931
11.	Nikhiraj Wood Products Pvt Ltd	157145
12.	NSE Events	156015
13.	Poornima Oak	103030
14.	Prashant Khedekar	35000
15.	Sadanand Shetty	31500
16.	Services India	828852
17.	Shyam Pandurang Bhagat	845200
18.	Sunita Fabrication Work	600003
19.	Techno Fabrication Works	1371250
20.	Ulhas Sahasrabuddhe	2125293
21.	Vijay V Rajwade	28652
22.	CVK & Associates	239291
23.	Jai Santoshi Tradex Pvt Ltd	272817
24.	Jess Ideas Pvt Ltd	1876451
25.	Maharashtra Traders	275810
26.	Rapid Systems	30845
27.	Santosh Paint & Hardware	748615
28.	Shri & Co	16538

The Assessing Officer has held that the assessee has failed to furnish details such as addresses, PAN, etc. of the above mentioned creditors and have only submitted the name of the creditors, whose balances were outstanding for preceding two years. The Assessing Officer has made the addition on the ground that the assessee has failed to furnish documentary evidences in support of the said transactions and had added the impugned amounts to the total income of the assessee. Aggrieved by this, the assessee was in appeal

before the Ld.CIT(A), who confirmed the impugned addition made by the Assessing Officer. The Ld.CIT(A) has passed the order on 06/02/2022 exparte on the background that inspite of sufficient opportunities, the assessee has refrained from appearing before him. Aggrieved, the assessee is in appeal before us.

7. The Ld.AR for the assessee contended that the assessee was unable to present its case before the Ld.CIT(A) and further stated that the assessee has got a good case in its favour and prayed that the same may be restored to the file of the Ld.CIT(A). The Ld.AR further stated that the assessee has subsequently made payments to the creditors mentioned in the assessment order and has consented to furnish details of PAN and addresses of the creditors before the Ld.CIT(A) for verification.

8. The Ld.DR had nothing to controvert the same.

9. Having heard both the rival submissions and perused the materials on record, it is evident that the assessee has not denied the transaction with the creditors mentioned above. The assessee's grievance that the assessee needs one more opportunity to furnish the details of the creditors is considered justifiable. Considering the same, we are of the opinion that the assessee may be given one last opportunity to present its case before the Ld.CIT(A) by furnishing all the relevant documentary evidence to substantiate his claim. We hereby set aside the appeal to the file of the Ld.CIT(A).

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

Order pronounced in the open Court on 16th day September, 2022.

Sd/-

sd/-

(PRASHANT MAHARSHI)	(KAVITHA RAJAGOPAL)
ACCOUNTANT MEMBER	JUDICIAL MEMBER

Mumbai, Dated: 16/09/2022

Pavanan

Copy of the Order forwarded to :

1. The Appellant ,
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai