

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

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 449/KOL/2019
Assessment Year: 2012-2013**

***Kronje Suppliers Pvt. Limited,.....Appellant
40C, Chittaranjan Avenue, 3rd Floor,
Room No. 4,
Kolkata-700012
[PAN: AAECK6088M]
-Vs.-***

***Income Tax Officer,.....Respondent
Ward-4(4), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700069***

Appearances by:

*N o n e, appeared on behalf of the assessee
Shri Amal Kamat, CIT (D.R.), appeared on behalf of the Revenue*

**Date of concluding the hearing : November 03, 2022
Date of pronouncing the order : November 03, 2022**

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The assessee is in appeal before the Tribunal against the order of ld. Commissioner of Income Tax (Appeals)-2, Kolkata dated 02.08.2017 passed for A.Y. 2012-13.

2. The assessee has taken four grounds of appeal, out of that, Ground No. 4 is general ground of appeal, which does not call for recording of any specific finding.

3. In Grounds No. 1 & 2, the grievance of the assessee is that the ld. CIT(Appeals) has erred in confirming the addition of

Rs.36,01,00,000/- by dismissing the appeal of the assessee for want of prosecution.

4. Brief facts of the case are that the assessee has filed its return of income declaring 'NIL' income. The case of the assessee was selected for scrutiny assessment and a notice under section 143(2) was issued and served upon the assessee. In response to these notices, the assessee has filed written submission and Shri Mukesh Kumar Jhawan appeared to represent the case of the assessee. Ld. Assessing Officer has observed that the assessee has raised share capital by issue of shares on huge premium. He failed to bring on record specific facts relating to the investor companies, rather he devoted his energy in the direction that all these companies are paper companies, who has no worth and they are rotating the alleged investments on papers. Thereafter he made an addition of Rs.36,01,00,000/- with the aid of section 68 of the Income Tax Act. The assessment order could be drafted in a better manner by incorporating the necessary details instead of putting certain observations of earlier decisions in a cut and paste manner.

5. Dissatisfied with the above, the assessee carried the matter in appeal before the ld. CIT(Appeals), who dismissed the appeal for want of prosecution.

6. Though appeal has been filed before us but the notices issued through RPAD could not be served upon the assessee on account of incomplete address (or with the postal remark of 'left') on the premises. This appeal was listed on 01.11.2022. After perusing the papers, we became frustrated on account of non-cooperation of the assessee as well as non-recording of any specific facts by the revenue authorities. It is a very difficult situation for the adjudicator to resolve the issues.

7. With the assistance of ld. D.R., we have gone through the statement of facts filed before the ld. CIT(Appeals) by the assessee, because the assessee has not filed any statement of facts before the Tribunal. It has not placed on record the basic facts nor it has filed any paper book. It is also pertinent to note that the impugned order was passed on 02.08.2017 and appeal has been filed before the Tribunal on 08.03.2019. There is a huge gap of more than one and half year and on this difference, this stand of the assessee in Form No. 36 exhibits late communication of the order i.e. 07.03.2019 of the ld. CIT(Appeals), but no material has been annexed with the appeal before us demonstrating the service of this order on 07.03.2019.

8. No doubt, sub-section (6) of section 250 mandates the ld. CIT(Appeals) to decide the appeals on merit after determining the points in dispute and recording the reasons on those points. In the present case, the ld. CIT(Appeals) has dismissed the appeal for want of prosecution. This creates a difficulty before the ld. 2nd Appellate Authority for appreciating the facts in proper manner but the conduct of the assessee suggests that it is existing only in papers or in other words, it is a shell company without doing any real business. No one is serious in prosecuting its litigation before the appellate authorities. We directed our Bench Clerk to inform the assessee by Phone on the number available in Form No. 36. It was also directed that alternatively information be sent on e-mail. The telephone number was not picked up by anyone and e-mail has been sent to the assessee.

9. The irregularity crept in the finding of the ld. CIT(Appeals) deserves to be rectified and accordingly we take that responsibility of dealing of all these issues on merit. The situation for the ld. CIT(Appeals) was also helpless and in that condition, ld. 1st Appellate Authority might have adopted a short-cut but we regularise this irregularity by considering the statement of facts filed by the assessee before the ld. CIT(Appeals) as well as finding of the ld. Assessing

Officer. Though pages no. 4 and 5 of the assessment order are not completely legible but on those pages, ld. Assessing Officer has reproduced the finding of the ITAT in the case of Bishakha Sales Pvt. Limited. To our mind, the assesee has nothing to explain about the alleged raising of share capital except filing certain readymade information prepared by the Tax Consultant. It is unable to substantiate that information before us nor it has filed the paper book. Considering the above, we do not find any merit in this appeal. It is dismissed on merit.

10. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on November 03, 2022.

Sd/-

Sd/-

(Rajesh Kumar)
Accountant Member

(Rajpal Yadav)
Vice-President (KZ)

Kolkata, the 3rd day of November, 2022

*Copies to : (1) Kronje Suppliers Pvt. Limited,
40C, Chittaranjan Avenue, 3rd Floor,
Room No. 4, Kolkata-700012*

*(2) Income Tax Officer,
Ward-4(4), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square, Kolkata-700069*

*(3) Commissioner of Income Tax (Appeals)-2, Kolkata;
(4) Commissioner of Income Tax- ;
(5) The Departmental Representative
(6) Guard File*

TRUE COPY

By order

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

Laha/Sr. P.S.