

आयकर अपीलीय अधिकरण
मुंबई पीठ "ई" मुंबई
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री ओम प्रकाश कांत, लेखा सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "E" BENCH
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
आ. आ. सं. २३६४/मुंबई/२०२२ (नि.वं. २०१०-११)
ITA NO.2364/MUM/2022 (A.Y.2010-11)

Terroir India Wineries Pvt. Ltd. अपीलार्थी/Appellant
13, Yashodhara, 80, C.S. Veer
Savarkar Road, Dadar West
Mumbai-400 028
PAN No. AACCT2269H

बनाम Vs.

Deputy Commissioner of Income Tax प्रतिवादी/Respondent
Circle-8 (3) (1),
Aayakar Bhavan, M.K. Road,
Mumbai-400 020

अपीलार्थी द्वारा / Applicant by : Shri Abhishek Jhunjunwala
प्रतिवादी द्वारा / Respondent by : Shri Ashish Heliwal
सुनवाई की तिथि / Date of hearing : 14/11/2022
घोषणा की तिथि / Date of pronouncement : 28/11/2022

आदेश / ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is against the order of Commissioner of Income Tax (Appeals) National Faceless Appeal Centre, Delhi, [hereinafter referred to as "the CIT(A)"] dated 14/07/2022 for assessment year 2010-11.

2. Shri Abhishek Jhunjunwala appearing on behalf of the assessee submitted at the out set that the impugned order has been passed by the CIT(A) in ex-parte proceedings. The learned Authorised Representative (AR) submitted that the notices sent by the CIT(A) were never received by the assessee, therefore, no



submissions could be made before the First Appellate Authority. The CIT(A) passed the impugned order confirming addition made u/s 68 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”). The assessee had also challenged validity of notice issued u/s 148 of the Act. The ground raised by the assessee have been rejected by the CIT(A) in a summary manner. The learned AR thus, prayed for restoring the appeal to CIT(A).

3. Shri Ashish Heliwal representing the department vehemently defended the impugned order. The learned Departmental Representative (DR) submits that repeated notices were sent to the assessee through ITBA but, the assessee failed to company with the notices. The learned DR referred to the table given in para 5.1 of the impugned order giving details of the notices issued and date of hearing. The learned DR prayed for dismissing the appeal of assessee and upholding the impugned order.

4. We have heard the submissions made by rival sides. A perusal of the impugned order shows that the First Appellate Authority had issued notice of hearing to the assessee on five occasions through ITBA on different dates spread over the period starting from 21/01/2021 to 07/06/2022. The assessee failed to respond to any of the aforesaid notices. The contention of the assessee is that the notices were never served on the assessee. Without getting into the controversy of service or non service of the notices, we deem it appropriate to restore this appeal to the file of CIT(A) for *de novo* adjudication after affording reasonable opportunity of hearing/to make submissions to the assessee, in accordance with law.

5. The assessee shall co-operate in First Appellate Proceeding and shall make submissions within the time specified by the CIT(A). The assessee is directed to



respond to the notice(s) issued by CIT(A) without fail. The assessee if so advised may furnish its valid Email ID to the CIT(A) for service of the notice.

6. In the result, impugned order is set aside and appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Monday the 28th day of November 2022.

Sd/-

(OM PRAKASH KANT)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIALMEMBER

मुंबई/Mumbai,

दिनांक/Dated: 28/11/2022

M.R. SONAVANE

प्रतिलिपी अग्रेषित of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/The Respondent.
3. आयकर आयुक्त (अ)/ The CIT(A)-
4. आयकर आयुक्त/ CIT
5. विभागीय प्रतिनिधी, आय. अपी. अधि., मुंबई/DR, ITAT,Mumbai
6. गार्ड फाईल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)/
Sr. Private Secretary
ITAT, Mumbai