

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

BEFORE SHRI AMIT SHUKLA (JUDICIAL MEMBER)
AND
SHRI AMARJIT SINGH (ACCOUNTANT MEMBER)

ITA No.2883/Mum/2022
(Assessment year 2019-20)

Kridhan Infra Limited 203, Joshi Chambers Ahmedabad Street, Masjid East Mumbai-400 009 PAN : AADCR2540N	vs	CIT(Appeals), IT Department, National Faceless Appeal Centre (NFAC), Delhi
APPELLANT		RESPONDENT

Assessee represented by	Shri Rohit Golecha
Department represented by	Shri Abhishek Kumar – Sr AR.

Date of hearing	13/02/2023
Date of pronouncement	22/02/2023

ORDER

PER:AMARJIT SINGH (AM)

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter called, Ld.CIT(A)] dated 10/10/2022 for the assessment year 2019-20 sustaining the disallowance of amount added back by the Assessing Officer in respect of loss on sale of fixed assets to the amount of Rs.2,51,86,330/- for the assessment year 2019-20.

2. The fact in brief are that the return of income filed by the assessee on 24/10/2019 was processed under section 143(1) of the Act by the CPC, Bangalore. Thereafter, the CPC, vide order under section 154 of the Act on 27/11/2020 disallowed Rs.2,51,86,330/- being the loss on sale of fixed assets debited by the assessee to the P&L Account. Against the decision of CPC, the assessee has filed appeal before the Ld.CIT(A). As per the form 35 filed before the Ld.CIT(A), the assessee has submitted that CPC had issued communication under section 143(1)(a) to which the assessee had replied and submitted that it had already disallowed Rs.2,51,86,330/- being loss on sale of fixed assets in the income-tax return filed by the assessee. The assessee had also categorically explained that the same was reflected in Schedule B-Computation of Income from business or profession in the return of income. The assessee has also raised specific ground of appeal on the basis of above facts before the Ld.CIT(A) stating that adding the same amount resulted in treating the same amount twice. However, the Ld.CIT(A) has dismissed the appeal of the assessee for want of prosecution since the assessee has not made any compliance before the Ld.CIT(A).

3. Heard both the sides and perused the material on record. The assessee has filed return of income on 24/10/2019. The CPC (Assistant Director of Income-tax) vide order under section 154 dated 27/11/2020 has added loss on sale of assets of Rs.2,51,86,330/- to the total income of the assessee. The assessee filed appeal before the Ld.CIT(A) and stated that it had already disallowed the impugned loss of Rs.2,51,86,330/- as per the Income-tax return filed on 24/10/2019. However, the Ld.CIT(A) has dismissed the appeal of the assessee for want of non

prosecution since the assessee failed to make any compliance before the Ld.CIT(A) during the course of appellate proceedings.

4. During the course of appellate proceedings before us, the Ld.Counsel filed paper book comprising the copies of intimation under section 143(1), financials for A.Y. 2019-20, copy of tax audit report and copy of income-tax return and certified that these documents were filed / available before the lower authorities. The Ld.Counsel demonstrated by referring to these documents that loss on sale of fixed assets was initially debited to the P&L Account. However, while filing the return of income, the assessee had disallowed the same and the assessee had also submitted reply to the CPC online on the portal on 04/02/2020. It was also explained that the same was reflected at para – Schedule B – Computation of income from business or profession in the return of income. In the light of the above facts and circumstances, we observe that Ld.CIT(A) has not considered the material available on record and dismissed the appeal of the assessee for want of prosecution. We consider that the provisions of section 250(6) of the Income-tax Act provides that the orders of the first appellate authority disposing of the appeal shall be in writing and to settle the point arising in the appeal and the reasons for such decisions. However, in the case of the assessee, the Ld.CIT(A) has not adjudicated the issue on the basis of material available on the record. Therefore, we direct the Assessing Officer to allow the claim of the assessee after verification of the material on record as referred supra in this order. Accordingly, the grounds of the assessee is allowed for statistical purpose.

5. In the result, the appeal of the assessee is allowed for statistical purpose.
Order pronounced in the open court on 22/02/2023.

Sd/-	sd/-
(AMIT SHUKLA)	(AMARJIT SINGH)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Mumbai, Dt : 22nd February, 2023
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प्रतिलिपि अग्रेषित Copy 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 प्रतिनिधि, आय.अपी.अधि., मुंबई/DR,
ITAT, Mumbai
6. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

Dy./Asstt. Registrar) ITAT, Mumbai