

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'B', KOLKATA
[Before Dr. Manish Borad, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 389/Kol/2022
Assessment Year : 2016-17

Padrone Marketing Pvt. Ltd. PAN: AABCP 7082 K Appellant	Vs .	ACIT, Circle-12(1), Kolkata Respondent
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Date of Hearing	28.02.2023
Date of Pronouncement	13.03.2023
For the Assessee	Shri Siddarth Agarwal, Advocate
For the Revenue	Shri P.P. Barman, Addl. CIT

ORDER

Per Shri Sonjoy Sarma, JM:

This appeal of the assessee for the assessment year 2016-17 is directed against the order dated 26.11.2019 passed by the Id. Commissioner of Income-tax (Appeals) – 4, Kolkata [hereinafter referred to as ‘the ‘Id. CIT(A)’]. The assessee has raised the following grounds of appeal:

“i. For that Id. CIT(A) erred in passing the order, ex-parte in gross violation of principles of natural justice and as such the same is not sustainable in law.

ii. For that on the facts and in the circumstances of the case, the Id. CIT(A) grossly erred in confirming the addition of Rs. 1,16,50,579/- made by the AO treating it as undisclosed income which was otherwise the opening balance of fixed assets.

iii. For that on the facts and in the circumstances of the case, the Id. CIT(A) grossly erred in confirming the addition of Rs. 3,32,529/- being the disallowance of depreciation on land and building.

iv. The appellant craves leave to add further grounds of appeal or alter the grounds at the time of hearing.”

2. At the outset, we find that there is a delay of 892 days in filing of the appeal by the assessee. We after perusing the petition for condonation are

convinced that the assessee was prevented by sufficient cause from filing the appeal in time and hence delay is condoned and appeal is admitted.

3. At the outset, ld. Counsel for the assessee submitted that the assessee did not get any opportunity to file relevant documents and submissions before ld. CIT(A), one more opportunity should be given and the issues raised in the instant appeal may be set aside to the file of ld. CIT(A). Ld. D/R was fair enough not to oppose such prayer made by the ld. AR of the assessee.

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* 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. CIT(A) 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. CIT(A) and should not request for any further adjournment unless otherwise required for reasonable cause and should file all necessary documents so as to facilitate ld. CIT(A) 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 purposes.

Order pronounced in the open court on 13.03.2023.

Sd/-

(Manish Borad)
Accountant Member

Sd/-

(Sonjoy Sarma)
Judicial Member

Dated:13.03.2023
Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- Padrone Marketing Pvt. Ltd., C/o. Arsk & Associates, Unimark Asian, 52/1, Shakespeare Sarani, 16th Floor, Kolkata-700017.
2. Respondent – ACIT, Circle-12(1), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata