

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN CIRCUIT BENCH, DEHRADUN**

**BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 3827/Del/2017
Assessment Year: 2012-13**

Omega Herbs (P) Ltd.,
C/o RRA Tax India, D-58,
South Extension, Part-1,
New Delhi.

PAN: AABCO5019P

(Appellant)

Versus Income-tax Officer,
Ward 1(5), U.S. Nagar.

(Respondent)

Assessee by : Dr. Rakesh Gupta, Advocate
Sh. Shery Jain, Advocate
Revenue by : Sh. A.S. Rana, Sr. DR

Date of hearing : 23.06.2023
Date of pronouncement: 23.06.2023

ORDER

This is an appeal by the assessee against order dated 31.03.2017 of learned Commissioner of Income-tax (Appeals), Haldwani for assessment year 2012-13.

2. At the outset, learned counsel appearing for the assessee submitted that due to serious dispute between the share holders, proper representation neither could be made before the Assessing

Officer nor before learned Commissioner (Appeals) and the orders were passed ex parte. He submitted, the additions made by the Assessing Officer are sustained by learned Commissioner (Appeals) due to sheer lack of evidences. He submitted, now, the assessee has filed supporting evidence before the Tribunal by way of additional evidence, which are required to be examined by the departmental authorities. Thus, he submitted, the issues arising in the appeal may be restored back to the Assessing Officer for fresh adjudication after examining the additional evidences furnished by the assessee.

3. Learned Departmental Representative did not express any objection with regard to restoration of issues to the Assessing Officer.

4. Having considered rival submissions and perused materials on record, we find that the assessment order as well as order of the first appellate authority were passed ex parte. As explained before us by learned counsel for the assessee, due to serious dispute between the share holders, proper steps could not be taken in tax proceedings. Before us, the assessee has filed certain additional evidences under Rule 29 of the Income-tax (Appellate Tribunal) Rules, 1963 by explaining the reason that they could not be produced before the

departmental authorities, as the proceedings were completed *ex parte*. Considering the nature of additions, which were made purely due to lack of supporting evidences and the fact that there were genuine reasons for non-representation before the departmental authorities, we are inclined to restore the issues back to the Assessing Officer for de novo adjudication after examining the additional evidences furnished by the assessee. Needless to mention, the Assessing Officer must afford reasonable opportunity of being heard to the assessee before passing the assessment order. At the same time, we direct the assessee to appear before the Assessing Officer and comply with the queries to be raised by him. Further, the assessee must cooperate in finalization of the assessment proceedings. With the aforesaid observations, grounds are allowed for statistical purposes.

5. In the result, appeal is allowed for statistical purposes.

Order pronounced in the open court on 23/06/2023.

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-

(SAKTIJIT DEY)
VICE-PRESIDENT

Dated: 23.06.2023