

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C", MUMBAI**

**BEFORE SHRI S. RIFAUR RAHMAN, HON'BLE ACCOUNTANT MEMBER AND
SHRI SANDEEP SINGH KARHAIL, HON'BLE JUDICIAL MEMBER**

ITA NO. 1319/MUM/2023 (A.Y. 2011-12)

M/s. Crown Seals Pvt. Ltd., G-6-A, Laxmi Wollen Mill Estate Shakti Lane, Dr. E. Moses Road Mahalxmi, Mumbai - 400011 PAN: AACCC8602K	v.	ITO – Ward – 6(2)(1) Aayakar Bhavan, M.K. Road Mumbai - 400020
(Appellant)		(Respondent)

Assessee Represented by	:	Mr. Ravindra Poojary
Department Represented by	:	Mr. Ashok Kumar Ambartha
Date of Conclusion of Hearing	:	06.07.2023
Date of Pronouncement	:	12.07.2023

ORDER

PER S. RIFAUR RAHMAN (AM)

1. This appeal is filed by the assessee against order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre,

Delhi [hereinafter in short "Ld.CIT(A)"] dated 31.01.2023 for the A.Y.2011-12.

2. Assessee has raised following grounds in its appeal: -

I. Reopening of Assessment:

1. *On the facts and in the circumstances of the case and as per the law, the Id.CIT(A) erred in confirming the order of A.O in reopening the assessment vide notice u/s 148 dated 28/03/2018 which is beyond the period of four year merely on information received from DGIT(INV) Mumbai and sales tax department without considering the fact that there was no tangible material on basis of which a assessment can be reopened, further the AO failed to apply his independent mind to such material before reopening the assessment, therefore the reopening is bad in law.*

II. Addition as unexplained purchases u/s 69C of Rs.1,12,71,293/-

2. *On the facts and in the circumstances of the case and as per the law, the Id.CIT(A) erred in confirming the order of A.O in disallowing the purchases from nineteen parties aggregating to Rs. 1,12,71,293/ without considering the genuineness of purchase duly supported by documents details like bank statement showing payments made to supplier, purchase bills, ledger accounts etc, therefore merely on the information received from the sales tax department and third party statement, purchases cannot be treated as non-genuine.*

3. *On the facts and in the circumstances of the case and as per the law. the Id.CIT(A) erred in deciding the appeal ex parte in violation of the principle of natural justice.*

4. *On the facts and in the circumstances of the case and as per the law, the order dated 31.01.2023 as passed by the Id CIT(A) is bad in law since it dismisses the appeal on the reason of non-prosecution and does not adjudicate on the grounds of appeal and the issues under consideration. The said order being in violation of the provisions of Section 250 and 251 of the Act and the decision of the Hon'ble jurisdictional Bombay High Court in "CIT vs. Premkumar Arjundas Luthra (HUF) [2016] 69 taxmann.com 407 (Bombay)" may be quashed.*

5. *The Assessee craves leave to add, amend, alter or delete any or all the above grounds of appeal."*

3. At the outset, Ld. Counsel for the assessee submitted that Ld.CIT(A) passed ex parte order without providing adequate opportunity of being heard to the assessee, therefore, considering additions/disallowance made by the Assessing Officer, Ld. Counsel for the assessee requested that the matter may be restored to the file of the Ld.CIT(A).

4. Ld. DR has no serious objection in remitting the matter back to the file of the Ld.CIT(A).

5. Considered the rival submissions and material placed on record, on a perusal of the Ld.CIT(A) order, we find that even though the Ld.CIT(A) provided opportunity on several occasions, assessee could not appear nor complied to the notices. Considering the totality of facts and submissions of the Ld. AR and keeping in view the additions/disallowance made by the Assessing Officer, we are of the opinion that assessee should be given one more opportunity of being heard in the interest of principles of natural justice. Thus, this appeal is restored to the file of the Ld.CIT(A) for denovo adjudication in accordance with law. Assessee shall cooperate with the proceedings before the Ld.CIT(A) without taking unnecessary adjournments. Needless to say that the Ld.CIT(A) shall give adequate

opportunity of being heard to the assessee. Thus, this appeal is restored to the file of the Ld.CIT(A) accordingly.

6. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 12th July, 2023.

Sd/-
(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

Mumbai / Dated 12.07.2023
Giridhar, Sr.PS

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum