

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'C' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Dr. Manish Borad, Accountant Member**

**I.T.A. No. 327/KOL/2023
Assessment Year: 2012-2013**

***Nifty Vincom Pvt. Limited,.....Appellant
18, Netaji Subhas Road, 1st Floor,
Backgate,
Kolkata-700001
[PAN: AADCN7903K]
-Vs.-***

***Income Tax Officer,.....Respondent
Ward-6(3), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700069***

Appearances by:

*Shri Miraj D. Shah, A.R., appeared on behalf of the
assessee*

*Shri Manas Mondal, Addl. CIT, Sr. D.R., appeared on
behalf of the Revenue*

**Date of concluding the hearing : December 13, 2023
Date of pronouncing the order : December 13, 2023**

O R D E R

Per Dr. Manish Borad, Accountant Member:-

The assessee is in appeal before the Tribunal against the order of ld. Commissioner of Income Tax (Appeals), National

Faceless Appeal Centre (NFAC), Delhi dated 24.02.2023 passed for A.Y. 2012-13.

2. At the very outset, ld. Counsel for the assessee has filed an affidavit of one Shri Rakesh Kumar Daga, Director of the assessee-company pleading therein that on the last date of hearing fixed before the ld. 1st Appellate Authority, the assessee has applied for an adjournment and prayed that hearing be adjourned upto 25th February, 2023. This application was made on 15th February, 2023. According to the assessee, that it only sought a time of 10 days from the ld. CIT(Appeals), but ld. 1st Appellate Authority has decided the appeal on 24th February, 2023 without the assistance of the material ought to be supplied by the assessee. He prayed that proper opportunity of hearing was not granted to the assessee. Therefore, the impugned order be set aside and the matter be restored to the file of ld. CIT(Appeals).

3. With the assistance of ld. Representatives, we have gone through the record carefully. It emerges out that the ld. 1st Appellate Authority has dismissed the appeal on account of non-prosecution. In the concluding paragraph, ld. CIT(Appeals) has observed that there was no compliance either by the assessee-company or by the subscriber companies. This procedure is not in consonance with sub-section (6) of section 250 of the Income Tax Act, whereby ld. 1st Appellate Authority is required to determine the points in dispute and thereafter record the reasons

on those points. Therefore, this order is not sustainable. We set aside the impugned order and restore all the issues to the file of ld. CIT(Appeals) for fresh adjudication.

4. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 13/12/2023.

Sd/-

Sd/-

(Rajpal Yadav)
Vice-President (KZ)

(Manish Borad)
Accountant Member

Kolkata, the 13th day of December, 2023

*Copies to :(1) Nifty Vincom Pvt. Limited,
18, Netaji Subhas Road, 1st Floor,
Backgate,
Kolkata-700001*

*(2) Income Tax Officer,
Ward-6(3), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square, Kolkata-700069*

*(3) Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre, Delhi;*

(4) The Departmental Representative

(5) Guard File

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.