

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA

**BEFORE SHRI SONJOY SARMA, JUDICIAL MEMBER
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.782/Kol/2023
Assessment Year: 2012-13**

Vinca Vyapar Pvt. Ltd. Room No. 10, 3 rd floor, Mercantile Building, 9/12, Lal Bazar Street, Kolkata-700001. (PAN: AADCV9812B)	Vs.	Income Tax Officer, Ward- 5(1), Kolkata
(Appellant)		(Respondent)

Present for:

Appellant by : N o n e
Respondent by : Shri Anup Biswas, Addl. CIT

Date of Hearing : 04.01.2024
Date of Pronouncement : 17.01.2024

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi vide order No. ITBA/NFAC/S/250/2022-23/1048374288(1) dated 30.12.2022 passed against the assessment order by ITO, Ward-5(1), Kolkata u/s.143(3) r.w.s. 144 of the Income-tax Act, 1961 (hereinafter referred to as the "Act"), dated 26.03.2015 for AY 2012-13.

2. Grounds taken by the assessee are as under:

"1. That, on the facts and in the circumstances of the case, the Ld. C.I.T. (A), NATIONAL FACELESS APPEAL CENTER(AFAC) [hereinafter referred to as C.I.T.(A)] erred in confirming the addition made by the Ld. Assessing Officer [hereinafter referred to as AO].

2. That under the facts and in the circumstances of the case, Ld.CIT (A) erred in passing order ex-parte.

3. That on the facts and in the circumstances of the case, Ld. CIT(A) failed to provide valid opportunity of hearing since Ld. CIT(A) erred) erred in ignoring

the adjournment request filed by assessee on 14/11/2022 seeking adjournment up to 29/11/2022.

4. That under the facts and in the circumstances of the case, the Ld. CIT (A) erred in confirming the addition of a sum of Rs.2,74,01,300/- made by the AO for the share capital raised. The addition is unjustified and need to be deleted.

5. For that, in view of the facts and circumstances of the case, Ld. CIT(A) erred on facts as well as in law in making addition of Rs. 11,857/- by resorting to section 14 A of the Income Tax Act 1961.

6. That the appellant craves leave to add, alter, amend or withdraw any ground or grounds of appeal before or at the time hearing.”

3. We note that there is a delay of 149 days in filing the present appeal. A request for condonation of delay is placed on record dated 26.07.2023 by the assessee on its letter head. The reasons given for the cause of delay is that the Ld. Counsel for the assessee could not reach to the Tribunal office on the date 28.02.2023 due to big procession and consequent traffic blockage on the way. The order of Ld. CIT(A) is dated 30.12.2022 and the present appeal was due for filing on or before 28.02.2023. In the said application, it is stated that the Ld. Counsel for the assessee missed to file the appeal on 28.02.2023 which was filed on 28.07.2023. We fail to understand what prevented the assessee to file the appeal on the subsequent dates after the date on which counsel could not reach the Tribunal office due to traffic blockage and as such causing a delay of 149 days in filing the appeal. The reasons given by the assessee in its application for condonation of delay are general and vague in nature and in no way justified the delay caused in filing the appeal of 149 days. We also take note of the fact that impugned assessment order has been passed u/s. 144 of the Act since assessee did not comply with the notices and the show cause letter issued by the Ld. AO seeking details and explanation on the transaction of share capital including share premium raised during the year totalling to Rs.6,21,00,000/- and disallowance to be made u/s. 14A for the investments made by the assessee in equity shares.

4. Aggrieved, assessee went in appeal before the Ld. CIT(A) which also has been dismissed for non-prosecution as none appeared and no submissions were made before him. Even before us, the appeal filed is delayed by 149 days. Also this case has been listed earlier for hearing on which nobody appeared to represent the assessee. From the perusal of the impugned assessment order and the statement of facts placed on record, we note that assessee had raised its share capital comprising of Rs.6,21,60,000/- towards share capital and premium totalling to Rs.6,21,00,000/-. In the statement of facts, assessee has claimed that it has furnished all the relevant documentary evidences in support of the share capital so raised. However, from the records available it is not discernible about the fact of furnishing the records by the assessee. The conduct and behaviour of the assessee at all stages of the proceedings also do not in any way suggest us about availability of the records and documents furnished before the authorities below as claimed in the statement of facts. Ld. AO in his order has noted that since proper compliance has not been made, verification could not be made in respect of the transaction undertaken by the assessee. Considering the facts on record, we are inclined to adjudicate upon the matter ex parte qua the assessee. Thus, with the assistance of Ld. Sr. DR perusal of the material on record, we do not find any reason to interfere with the observations and findings given by the Ld. AO to sustain the addition so made. Accordingly, grounds taken by the assessee are dismissed.

5. In the result, appeal of the assessee is dismissed.

Order is pronounced in the open court on 17th January, 2024

Sd/-
(Sonjoy Sarma)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 17th January, 2024
JD, Sr. P.S.

Copy to:

1. The Appellant:
 2. The Respondent.
 3. CIT(A), NFAC, Delhi
 4. CIT
 5. DR, ITAT, Kolkata Bench, Kolkata
 - 6.
- //True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata

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