

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “B” BENCH, AHMEDABAD**

**BEFORE SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER AND
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.515/Ahd/2023
Assessment Year: 2013-14**

Dexter Consultancy Pvt. Ltd., 1, Sumangalam Society, B/h. Memnagar Fire Station, Navrangpura, Ahmedabad – 380 009. [PAN – AACCD 8995 Q]	Vs.	The Income Tax Officer, Ward – 1(1)(4), Now Ward – 1(1)(3), Ahmedabad.
(Appellant)		(Respondent)
Assessee by	None	
Revenue by	Shri Vipul Chavda, Sr. DR	
Date of Hearing	18.01.2024	
Date of Pronouncement	18.01.2024	

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER :

This appeal is filed by the assessee against order dated 28.04.2023 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2013-14.

2. The assessee has raised the following grounds of appeal :-

- “1. *On facts and in the circumstances of the case, the Ld. CIT(A) has erred in passing ex-parte order when latest appellate notices were not received on registered e-mail id. mentioned in ITBA Portal.*
2. *On the facts and in the circumstances of the case, the order under Section 250 of the Income Tax Act, 1961 without considering the submissions made by is bad in law and deserves to be cancelled.*
3. *On the facts and in the circumstances of the appellant’s case, the Ld. CIT(A) has erred in upholding an addition of Rs.10,000/- being the difference of cash in hand as per cash book furnished and closing balance of cash.*

4. *On the facts and in the circumstances of the appellant's case, the Ld. CIT(A) has erred in upholding addition made by Assessing Officer applying Rule 11UA as prescribed under Section 56(2)(viib) of the Act without considering the fact that Rule 11UA introduced with effect from November 29, 2012 is prospective in nature.*
5. *On the facts and in the circumstances of the appellant's case, the Ld. CIT(A) has erred in upholding the addition of Rs.38,77,497/- under Section 56(2)(viib) of the Act treating the same to be in excess price charges for shares over and above the fair value such shares without considering the report of Chartered Accountant."*

3. The assessee was engaged in consulting of market research and information technology. Return of income was filed on 13.10.2013 declaring total income of Rs.10,10,960/-. The return was processed under Section 143(1) of the Income Tax Act, 1961. The case was selected for scrutiny and notice under Section 143(2) of the Act was issued on 04.09.2014 and served to the assessee. The statutory notices were served to the assessee and the Authorised Representative/Chartered Accountant attended on behalf of the assessee company from time to time and furnished the details. After taking cognisance of the details, the Assessing Officer made disallowance of Rs.1,75,385/- towards employees contribution to PF/ESI fund filed belatedly. The Assessing Officer made addition of Rs.38,77,497/- u/s. 56(2)(viib) of the Act in respect of share premium. The Assessing Officer also made addition of Rs.17,869/- towards interest received by the assessee under Section 244A of the Act and addition of Rs.10,000/- for difference in cash balance.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the CIT(A) has passed ex-parte order without adjudicating the issues contested therein on merit. The Ld. AR requested that the matter may be remanded back to the file of the CIT(A) for proper adjudication of the issues on merit.

6. The Ld. DR relied upon the order of the CIT(A) and the Assessment Order.

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the CIT(A) has simplicitor dismissed the appeal of the assessee on the ground that the assessee has not filed any submissions during the appellate proceedings and decided the case without looking into the merits of the issues contested by the assessee. Though the CIT(A) has mentioned that notices were issued to the assessee on various dates, but whether the same was properly served to the assessee or not has not been mentioned in the order passed by the CIT(A). Therefore, it will be appropriate to remand back this matter to the file of the CIT(A) for proper adjudication of the issues contested by the assessee before the CIT(A). Needless to say, the assessee be given opportunity of hearing by following the principles of natural justice.

8. In the result, appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on this 18th January, 2024 in the presence of
Ld. DR, and reduced to writing & signed on 22nd January, 2024

Sd/-
(RAMIT KOCHAR)
Accountant Member

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 22nd day of January, 2024

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Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad