

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH, KOLKATA

डॉ. मनीष बोरड, लेखा सदस्य

एवं

श्री संजय सरमा, न्यायिक सदस्य

के समक्ष

Before

Dr. Manish Borad, Accountant Member

&

Shri Sonjoy Sarma, Judicial Member

I.T.A. No.184/KOL/2023

Assessment Year: 2013-14

Basuki Vyapaar Pvt. Ltd.
(PAN: AACCB6156B)

.....

Appellant

Vs.

Income Tax officer,
Ward-8(1), Kolkata.

..... ***Respondent***

Appearances by:

No one appeared for Appellant.

Shri Jitendra Kantilal Surti, JCIT (DR) appeared for Respondent.

Date of concluding the hearing : 05.02.2024

Date of pronouncing the order : 23.02.2024

ORDER

Per Manish Borad, Accountant Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short “AY”) 2013-14 is directed against the order passed u/s 250 of the Income Tax Act, 1961 in short the “Act”) by ld. Commissioner of Income-tax, NFAC, Delhi [in short ld. “CIT(A)”] dated 09.01.2023 arising out of the assessment order framed u/s 143(3) of the Act by ITO, ward-8(1) dated 08.03.2016.

2. When the case was called or none appeared on behalf of the assessee. In the past also when the case was fixed for hearing on 06.06.2023 and 23.08.2023, there was no compliance. We thus

proceed to adjudicate this appeal ex parte qua the assessee. The assessee has raised the following grounds of appeal:

- “1. For that the Ld. CIT (A) erred in deciding the appeal ex-parte without allowing the appellant any proper opportunity of being heard.*
- 2. For that the appellant craves leave to produce additional evidences in terms of Rule 46A of the Income Tax Rules 1962.*
- 3. For that the order passed by the Ld. CIT (A) is bad in law since the Ld. CIT (A) has not decided the issues ground wise in respect of the grounds raised by the appellant in the Memo of Appeal.*
- 4. For that the Ld. CIT (A) is bad in law since the order passed is not any speaking order nor the Ld. CIT(A) has looked into the assessment records and relevant materials to conclude that the order of the Ld. AO cannot be interfered with.*
- 5. For that on the facts and in the circumstances of the case the order passed by the Ld. CIT (A) is not maintainable.*
- 6. For that the order of the Ld. AO be modified and the assessee be given relief prayed for.*
- 7. For that the assessee craves leave to add, alter or amend any ground before or at the time of hearing.”*

3. From the perusal of the above grounds, we find that main contention of the assessee is that it was not provided sufficient opportunity of being heard and also it could not produce additional evidence in terms of Rule 46A. In a nutshell the prayer of the assessee in the grounds is that the matter may be remitted back to the file of Ld. CIT(A) so that one more opportunity is available to the assessee to plead its case and file the evidence so as to rebut the finding of the AO.

4. On the other hand, Ld. DR vehemently supported the orders of lower authorities stating that addition has already been made u/s. 68 of the Act at rs.2,29,87,550/- as the assessee miserably failed to explain the nature and source of the alleged sum.

5. We have heard the Ld. DR and perused the records placed before us. The assessee is a Private Limited company engaged in the

investment business. Nil income has been declared in the return for AY 2013-14 furnished on 31.03.2014. After the case being selected for scrutiny notices u/s. 143(2) and 142(1) of the Act were duly served upon the assessee. In the course of assessment proceeding, Ld. AO noted that assessee has received share application money pending for allotment to the tune of Rs.2,29,87,750/-. Though the assessee filed certain details but Ld. AO had not satisfied and he proceeded to make the addition u/s. 68 of the Act. Matter was carried before the First Appellate Authority, who dealt the issue on merits but in its finding it appears that assessee had not furnished certain documents to prove that alleged addition was uncalled for. We, therefore, taking a sympathetic view and in the interest of justice restore the issue before the Id. CIT(A) to adjudicate the same afresh on merit after affording one more opportunity to the assessee to plead its case and if necessary to file relevant material in support of its grounds of appeal. However, the assessee is directed not to take adjournment unless otherwise require for reasonable cause. Thus, the ground of appeal raised by the assessee is allowed for statistical purposes.

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

Order is pronounced in the open court on 23rd February, 2024.

Sd/-
[Sonjoy Sarma]
Judicial Member

Sd/-
(Dr. Manish Borad)
Accountant Member

Dated:23rd February,2024

J.D. Sr. PS.

Copy of the order forwarded to:

- 1. Appellant – Basuki Vyapaar Private Limited,
1, Postal Park, Kolkata-700070.**
- 2. ITO, Ward-8(1), Kolkata.**
3. CIT(A), NFAC, Delhi.
4. CIT-
5. Departmental Representative
6. Guard File.

True copy

By order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata