

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'B', KOLKATA

[Before Shri Rajesh Kumar, Accountant Member &
Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 1019/Kol/2023
Assessment Year : 2012-13

Panchkoti Infrabuild Pvt. Ltd.	vs	ITO, Ward-5(2), Kolkata
PAN: AAGCP 4032 L		
Appellant		Respondent

Date of Hearing	20.02.2024
Date of Pronouncement	21.02.2024
For the Assessee	Mr. Siddharth Agarwal, AR
For the Revenue	Mr. P.P. Barman, Addl. CIT

ORDER

Per Sonjoy Sarma, JM:

This appeal of the assessee for the assessment year 2012-13 is directed against the order dated 10.01.2023 passed by the ld. Commissioner of Income-tax, Appeals, NFAC, Delhi [hereinafter referred to as 'the ld. CIT(A)']. The assessee has raised the following grounds of appeal:

"1. For that the ld. CIT(A) was not justified in passing an ex-parte order without providing any reasonable opportunity of hearing.

2. For that the ld. CIT(A) was not justified in confirming the addition of Rs. 5,18,00,000/- made by the AO on account of the share application money received by wrongly treating the same as unaccounted cash credit u/s 68.

3. The appellant craves leave to add further grounds of appeal or alter the grounds at the time of hearing."

2. At the outset, we find that there is a delay of 199 days in filing of the appeal by the assessee. We after perusing the petition

for condonation are convinced that the assessee was prevented by sufficient cause from filing the appeal in time and hence delay is condoned and appeal is admitted.

3. At the time of hearing, ld. AR of the assessee submitted before the bench that the instant order passed by the ld. CIT(A) is an ex-parte order without discussing any issue raised in the appeal before him by simply dismissed the appeal of the assessee. The ld. AR further stated that this was happened due to non-appearance of ld. AR who had conducted the case before ld. CIT(A) while filing the appeal he has given the e-mail ID as jbbn_2010@yahoo.com which did not belongs to the assessee. Therefore, the assessee did not get any notice from the ld. CIT(A) regarding the pendency of the appeal before him and the ld. AR did not inform about the fact of the case to the assessee. Due to this reason, no steps have been taken on the part of the assessee. In view of the facts narrated above, the appeal of the assessee heard as an ex-parte without considering the issues involved in the appeal. The assessee immediately after getting the information about the dismissal of the appeal approached and engaged a new counsel to challenge the impugned order before the Tribunal stating that the instant appeal may be remand back to ld. CIT(A) and adjudicate on the issue available on record after giving reasonable opportunity of being heard to the assessee. The assessee also undertake that its authorized representative will appear before the ld. CIT(A) as and when the matter was fixed for hearing.

4. We after hearing the rival submissions of the parties and perused the material available on record find support in the contention made by the ld. AR of the assessee as narrated in the affidavit filed by the assessee that e-mail ID given by his earlier counsel was not of the assessee. Therefore, no notice was served in the case of assessee and ultimately order was passed against the assessee. We, therefore, deem it proper to remand back the issue to the file of ld. CIT(A) with a direction to re-examine the issue after giving reasonable opportunity of being heard to the assessee in the correct address given by the assessee before him. The assessee is also directed to file its necessary document before ld. CIT(A) in order to substantiate its claim. In terms of the above, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 21.02.2024

Sd/-

(Rajesh Kumar)
Accountant Member

Sd/-

(Sonjoy Sarma)
Judicial Member

Dated: 21.02.2024
Biswajit, Sr. PS

ITA No. 1019/Kol/2023
AY: 2012-13
Panchkoti Infrabuild (P) Ltd.

Copy of the order forwarded to:

1. Appellant – Panchkoti Infrabuild Pvt. Ltd., C/o Subash Agarwal & Associates, Advocates, Siddha Gibson, 1, Gibson Lane, Suite 213, 2nd Floor, Kolkata-700069.
2. Respondent – ITO, Ward-5(2), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata