

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No.893/Bang/2023
Assessment year : 2017-18

Deshpande Drugs Pvt. Ltd., No.25, 1 st Floor, 4 th Main Road, Chamarajpet, Bengaluru – 560 018. PAN: AAFCD 4825J	Vs.	The Income Tax Officer, Ward 2(1)(3), Bengalure.
APPELLANT		RESPONDENT

Appellant by	:	Shri H. Siva Prasad Reddy, ITP
Respondent by	:	Shri Subramanian, S., Addl.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	05.03.2024
Date of Pronouncement	:	19.03.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against order dated 15.09.2023 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2017-18.

2. The brief facts of the case are that the assessee filed return of income on 30.10.2017 declaring loss of Rs.35,95,928. The case was selected for scrutiny and statutory notices were issued to the assessee.

After considering the entire submissions of the assessee, the assessment was completed by making addition as under:-

12. Total income returned by the assessee:

Total loss	Rs. 35,95,928
Add: Cash deposit u/s. 68	Rs. 32,81,000
Add: Depreciation	Rs. 12,36,826
Add: Share u/s. 68	Rs. 4,60,000
Add: 56(2)(viib)	Rs. 18,36,252
Add: undisclosed sales	Rs. 85,65,169
Add: disallowance u/s 37(1)	Rs. 63,574
Assessed income	Rs.1,18,46,890

3. Aggrieved from the above order, the assessee filed appeal before the CIT(Appeals) and made detailed submissions. The CIT(Appeals) after considering the entire submissions, he partly allowed the appeal of the assessee. Against this, the assessee is in appeal before the ITAT.

4. The Id. AR reiterated the submissions before the lower authorities and submitted that as per para 2.6 & 2.7 of the written synopsis (page 5) personal hearing through video conferencing was sought for from the CIT(A), but the CIT(A) has passed the order without opportunity of hearing as mandated by the CBDT vide Notification No.139/2021 dated 28.12.2021 and violating the principles of natural justice.

5. The Id. DR relied on the order of the lower authorities and submitted that the CIT(Appeals) has passed the order on the basis of submissions made before him and a detailed order has been passed.

6. Considering the rival submissions, we note that the AO has made various additions as noted above and the CIT(Appeals) has partly allowed the appeal of the assessee. We note that the assessee has sought for hearing through video conference as mandated by CBDT Notification No.139/2021 dated 28.12.2021, but the CIT(A) has been passed the order without giving such opportunity. Therefore, considering the principle of natural justice, we remit the appeal to the CIT(Appeals) for fresh consideration after giving opportunity of being heard to the assessee as per the above CBDT Notification and decision as per law. The assessee is directed to follow the directions of the CIT(Appeals) and produce all the relevant documents to substantiate its claim, without seeking unnecessary adjournment for early disposal of the case. We make it clear that we have not gone into the merits of the case.

7. In the result, the appeal of the assessee is allowed for statistical purposes in the above terms.

Pronounced in the open court on this 19th day of March, 2024.

Sd/-
(GEORGE GEORGE K.)
VICE PRESIDENT

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 19th March, 2024.

/Desai S Murthy /

Copy to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.