

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

**BEFORE SHRI PAVAN KUMAR GADALE, JM &  
MS PADMAVATHY S, AM**

**I.T.A. No. 4851/Mum/2023  
(Assessment Year: 2015-16)**

<b>Native Konbac Bamboo Products Pvt. Ltd.</b> 4-172, Anjali Society, Road No.5, Shivaji Park, Mahim, Mumbai-400016. <b>PAN : AADCN0521F</b>	Vs.	<b>ITO- 7(2)(3)</b> Aayakar Bhavan, M.K. Road, Marine Lines, Mumbai-400020.
<b>Appellant)</b>	:	<b>Respondent)</b>

**Appellant/Assessee by** : Shri Anant N Pai, CA  
**Revenue/Respondent by** : Shri Laxmi Kant, Sr. DR

**Date of Hearing** : 09.05.2024  
**Date of Pronouncement** : 09.05.2024

**ORDER**

**Per Padmavathy S, AM:**

This appeal is against the order of the Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre, Delhi [for short 'the CIT(A)] dated 09.10.2023 for the AY 2015-16. The only issue contended in this appeal is the addition made by the Assessing Officer (AO) under section 56(2)(viib) of the Income Tax Act, 1961 (the Act).

2. The assessee is a private limited company and engaged in the business of manufacture and sale of bamboo products. The assessee filed a return of income for AY 2015-16 on 24.03.2016 declaring a total income of Rs. 2,40,990/-. The AO

during the course of hearing noticed that the assessee has shown in the balance-sheet a sum of Rs. 1,60,85,400/- as share application money along with the premium of Rs. 1,43,92,200/-. The AO called on the assessee to furnish details with regard to valuation of shares. After perusing the various details furnished by the assessee, the AO was of the view that there is an excess transaction received by the assessee to the tune of Rs. 1,40,53,560/- and therefore, made an addition of the said amount under section 56(2)(viib) of the Act. Aggrieved assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal ex-parte without going into the merits of the case stating that there was no response to the notice issued by the CIT(A) and that no further details have been furnished. The assessee is in appeal before the Tribunal against the order of the CIT(A).

3. The Id. Authorized Representative (AR) of the assessee submitted that the assessee has filed various documents with regard to the addition made by the AO before the CIT(A). The Id. AR in this regard drew our attention to the online acknowledgement of having filed the documents on 28.09.2023. The Id. AR further submitted that the CIT(A) has stated in the order that the assessee did not file any details which is factually incorrect and therefore, the order passed ex-parte is not tenable.

4. The Id. DR on the other hand relied on the order of the lower authorities.

5. We have heard the parties and perused the material available on record. We noticed from the order of the CIT(A) that the CIT(A) has issued notices on various dates from 22.01.2021 and the last of such notices was issued on 25.09.2023 asking the assessee to comply by 29.09.2023. We further noticed that the CIT(A) has stated that the assessee did not file any details and that there was response from

the assessee to the notices issued. Accordingly, it is noticed that the CIT(A) has disposed of the appeal ex-parte. From the perusal of the Paper Book submitted by the assessee, we notice that the assessee has made an online submission on 28.09.2023 before the CIT(A) containing documents such as copy of valuation report etc. which have not been taken into consideration by the CIT(A) while adjudicating the matter. Therefore in the interest of natural justice and fair play, we are of the considered view that one more opportunity should be given to the assessee to represent the case before the First Appellate Authority. Accordingly, we remit the issue back to the CIT(A) for a fresh consideration with a direction to examine the details already submitted online by the assessee and call for any further details that may be required in this regard. The assessee is directed to furnish the relevant details and co-operate with the appellate proceedings. It is ordered accordingly.

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

*Order pronounced in the open court on 09-05-2024.*

*Sd/-*  
**(PAVAN KUMAR GADALE)**  
**Judicial Member**

*\*SK, Sr. PS*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

*Sd/-*  
**(PADMAVATHY S)**  
**Accountant Member**

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**