

**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, KOLKATA**

**Before**

**Dr. Manish Borad, Accountant Member**

**&**

**Shri Pradip Kumar Choubey, Judicial Member**

**I.T.A. No.1478/KOL/2023**

**Assessment Year: 2012-13**

|   |            |  |
|---|------------|--|
| Anukul Commercial Private Limited<br>Kala AMB, Tehsil Nahan,<br>Sirmaur, Nahan, Himachal<br>Pradesh-173030.<br>(PAN:AAGCA7803A) | <b>Vs.</b> | Income Tax Officer, Ward-1(1),<br>Kolkata. |
| <b>(Appellant)</b>  |            | <b>(Respondent)</b>                        |

**Appearances by:**

*None appeared for the Appellant*

*Shri L. N. Dash, Addl. CIT (DR) appeared for Respondent.*

Date of concluding the hearing : 09.05.2024

Date of pronouncing the order : 28.05.2024

**ORDER**

**Per Manish Borad, Accountant Member:**

This appeal filed by the assessee pertaining to the Assessment Year (in short “AY”) 2012-13 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the “Act”) by Id. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [in short Id. “CIT(A)”] dated 26.10.2023 arising out of the assessment order passed u/s 144/143(3) of the Act by ITO, Ward-1(1), Kolkata (in short “AO”) dated 24.03.2015.

2. At the time of hearing neither any one appeared on behalf of the assessee nor filed any adjournment application before the Tribunal. Notice of hearing has been served through RPAD to the assessee but to choose to remain absent on the date of hearing. We, therefore,

dispose of this appeal with the able assistance of the Ld. CIT, DR and available records.

3. The issues raised by the assessee in various grounds are summarized as under:

(i) Ld. CIT(A) erred in rejecting the condonation of delay.

(ii) Ld. CIT(A) was unjustified in concluding the proceeding in a hasty and hurry manner without granting proper opportunity of hearing to the assessee, who did not receive any notice on its registered e-mail address.

(iii) The Ld. CIT(A) erred in confirming the addition of disallowance of expenses of Rs.12,50,672/-.

4. Ld. CIT, DR vehemently argued in support of the orders of the lower authorities and submit before the Bench to confirm the order of the Ld. CIT(A).

5. We have heard Ld. CIT, DR and carefully perused the material placed before us. We notice that the assessee is a private limited company and has filed its return electronically for AY 2012-13 on 26.09.2012. Case selected for scrutiny under CASS following by validly serving notice u/s. 143(2) and 142(1) of the Act. Ld. AO carried out the proceeding, there was no compliance on the part of the assessee. Based on the available records, ld. AO noticed that assessee had debited expenses to the tune of Rs.12,56,672/- under different heads but the same could not be verified due to non-compliance on the part of the assessee. He thus, concluded the assessment disallowing Rs.12,56,672/-. Aggrieved against the said order, assessee filed appeal before the Ld. CIT(A) but failed to appear on account of the reason stated in the grounds that it did not receive

notice of hearing on its registered e-mail address. We observe that Ld. CIT(A) noted that the assessment order is dated 24.03.2015 but the assessee has claimed to have received the order on 09.03.2018 showing that there was a huge gap between the date of assessment order and date of service. It was claimed by the assessee in the statement of fact before Ld. CIT(A) that on verification of the demand status at the website of Income Tax Department, demand of Rs.8,07,690/- for AY 2012-13 was observed. Thereafter, assessee approached the ITO, Ward-1(1) for copy of the said order which was provided on 09.03.2018. Ld. CIT(A) was not satisfied with this submission of the assessee in the statement of fact and observed that the address specified in the assessment order to corresponds to Kolkata but the one in Form 35 indicates an address of Himachal Pradesh. Ld. CIT(A) thus, did not condone the delay in filing the appeal and rejected the condonation application. As far as the merits of the case are concerned, Ld. CIT(A) has observed that the assessee was advised to participate in Vivad Se Vishwas Scheme 2020 if it wished to do so or else furnish the written submission but since the assessee did not receive any notice of hearing, Ld. CIT(A) confirmed the addition.

6. Going through these facts, we note that the only issue is regarding disallowance of expenses. The assessee is a Private Limited Company and is statutorily required to get the books of account audited and furnish the audited financial statements with the respective authorities. Had the assessee got an opportunity it could have furnished the proof of alleged expenses. We also note that there is a huge gap between date of assessment order and receiving of the same but taking in to account the smallness of the amount of addition and not ignoring the fact that assessee may not have received the

assessment order since no notice of hearing was received from the AO, in order to meet the ends of justice, we deem it fit and proper to condone the delay, if any in filing the appeal before the Ld. CIT(A) and remit the matter back to the file of Ld. AO for examining the correctness of the expenses claimed at Rs.12,56,672/- for which reasonable opportunity of being heard shall be provided to the assessee to furnish the details. The assessee is also directed to update the correct e-mail address on the PAN data base and shall not take adjournment unless otherwise required for reasonable cause.

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

Order is pronounced in the open court on 28<sup>th</sup> May, 2024.

Sd/-  
[Pradip Kumar Choubey]  
Judicial Member

Sd/-  
[Dr. Manish Borad]  
Accountant Member

Dated: 28<sup>th</sup> May, 2024

*J.D. Sr. PS.*

*Copy of the order forwarded to:*

1. **Appellant** –
2. **Respondent** –
3. CIT(A), NFAC, Delhi
4. CIT
5. Departmental Representative
6. Guard File.

*True copy*

By order

Assistant Registrar  
ITAT, Kolkata Benches