

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH : BANGALORE**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA Nos. 617 & 602/Bang/2024
Assessment Years : 2016-17 & 2017-18

M/s. Shiksha Infotech Pvt. Ltd., 90, Buddhinath Towers, Ground Floor, 2 nd Main, 1 st Phase, Electronic City, Hosur Road, Bangalore – 560 100. PAN: AANCS6750P	Vs.	The Deputy Commissioner of Income Tax, Circle – 6 (1)(1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Akshaya K.S., CA
Revenue by	:	Ms. Shamala .D.D, Addl. CIT-DR

Date of Hearing	:	21-05-2024
Date of Pronouncement	:	07-06-2024

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeals arises out of separate orders passed by the NFAC, Delhi dated 03.02.2024 for A.Y. 2016-17 and 29.01.2024 for A.Y. 2017-18.

2. At the outset, the Ld.AR submitted that the orders passed by the Ld.CIT(A) / NFAC are ex-parte order for both years under consideration. He submitted that various notices were issued to the assessee on ITBA portal. However, due to severe health issue faced by the authorised representative of the assessee, could not furnish relevant information / details to support the claim before the NFAC. The Ld.AR submitted that affidavit dated 07.05.2024 has been placed in the paper book at pages 32-33 explaining the same.

The Ld.AR prayed for the appeals to be remanded in order to consider the claim on merits in the light of evidences filed by the assessee.

3. The Ld.DR objected to the prayer raised by the Ld.AR. He submitted that there is no evidences to substantiate the reason provided by the assessee for not appearing before the Ld.CIT(A). He thus prayed for the order of the Ld.CIT(A) to be confirmed.

We have perused the submissions advanced by both sides in the light of records placed before us.

4. We note that admittedly assessee did not appear before the Ld.CIT(A), though various opportunities were granted. The affidavit filed by the authorised representative clarifies that there was a reasonable cause for non-appearance.

5. An assessee has “the right to be heard at the hearing of the appeal” and such a right cannot be put against the assessee. Before an appeal can be disposed of, a fair and reasonable opportunity of hearing is to be essentially extended to the assessee. The non-exercise of this right by the assessee cannot be a reason enough for the CIT(A)’s not dealing with the points so raised before him on merits.

5.1. The exercise of the “right to be heard at the hearing of the appeal” by “the appellant, either in person or by an authorized representative condition”, under section 250(2)(a), is not a condition precedent for the disposal of appeal on merits in accordance with the scheme of Section 250(6). Therefore, irrespective of the non-appearance of the assessee before the CIT(A), the CIT(A) ought to have dealt with the issues so raised by the assessee on merits and to pass order by way of speaking order and in accordance with the law.

6. Accordingly, in the interest of justice, we deem it appropriate to remand the appeal back to the Ld.CIT(A) for necessary consideration. Needless to say that proper opportunity of being heard must be granted to the assessee. The assessee is also directed to furnish all relevant details in support of its claim. The

ITA Nos. 617 & 602/Bang/2024

Ld.CIT(A) is directed to pass a detailed order on merits after considering the evidences furnished by assessee.

Accordingly, the grounds raised by the assessee stands partly allowed for statistical purposes.

In the result, both the appeals filed by the assessee stands partly allowed for statistical purposes.

Order pronounced in the open court on 07th June, 2024.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 07th June, 2024.
/MS /

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|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore