

| आयकर अपीलिय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, KOLKATA

BEFORE DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER
&
SHRI PRADIP KUMAR CHOUBEY, HON'BLE JUDICIAL MEMBER

I.T.A. No. 537/Kol/2024
Assessment Year: 2012-13

Accurate Shoppers Pvt. Ltd. 5/1, 4 th Floor Room No. 125, Clive Row Kolkata - 700001 [PAN : AAICA9908Q]	Vs	Income Tax Officer, Ward - 4(3), Kolkata
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Siddarth Agarwal, Advocate
Revenue by :	Shri P.P. Barman, Addl. CIT D/R

सुनवाई की तारीख /Date of Hearing : 05/06/2024
घोषणा की तारीख /Date of Pronouncement: 12/06/2024

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The present appeal is directed at the instance of the assessee against the order of the National Faceless Appeal Centre, Delhi, (hereinafter the "Id. CIT(A)") dt. 30/01/2024, passed u/s 250 of the Income Tax Act, 1961 ("the Act") for Assessment Year 2012-13.

2. Brief facts of the case are that the assessee is a private limited company. It declared loss of Rs.65,724/- in the return filed on 26/03/2013 for Assessment Year 2012-13. Case of the assessee selected for scrutiny and after making addition of Rs.8.67 Crores, assessment u/s 143(3) of the Act completed on 23/03/2015. Thereafter based on information received from ITO, Investigation, Unit-1, Kolkata, re-assessment proceedings were carried out alleging that the income subject to tax has escaped assessment and notice was issued on

30/03/2018. It is claimed by the Id. Assessing Officer that notice was served through e-mail and assessee filed its return in response thereto, again declaring loss of Rs. 65,724/-, but thereafter, no compliance was made to the notices issued u/s 143(2) and 142(1) of the Act and accordingly, the Id. Assessing Officer passed the best judgment assessment order u/s 144 r.w.s. 147 of the Act making further addition of Rs.1.05 Crores for the unexplained money received from M/s. Dharmik Vintrade Pvt. Ltd., to the earlier assessed income at Rs.8,67,65,724/- and assessed income at Rs.9,72,65,720/-. Aggrieved the assessee preferred appeal before the Id. CIT(A) but failed to appear on the dates of hearings. Ld. CIT(A) has observed that assessee is not willing to pursue the appeal and the appeal deserves to be dismissed and further concurred with the finding of the Id. Assessing Officer and confirmed the additions.

3. Aggrieved the assessee is now in appeal before this Tribunal.

4. The Id. Counsel for the assessee submitted that non-compliance before the Id. CIT(A) was due to ill health of the Counsel Mr. Manoj Jha, who remained absent from office for a long time. He further submitted that before the Id. Assessing Officer, the assessee did not get any opportunity to plead its case nor could it file any documentary evidence to explain the nature and source of the alleged credits. He also referred to the paper book containing 21 pages stating that the assessee has complete details to explain the nature and source of alleged credit transactions with M/s. Dharmik Vintrade Pvt. Ltd. and

if an opportunity is granted, the details can be filed before the Id. Assessing Officer.

The Id. D/R, on the other hand, vehemently argued supporting the orders of the lower authorities and stated that the assessee has been non-compliant consistently and the matter does not deserve to be set aside to the file of the Id. Assessing Officer.

5. We have heard rival contentions and perused the material placed before us. We note that in the impugned proceedings, the assessee did not participate on account of ill health of its accountant who was looking after the income tax matters. We also note that the assessment order is an *ex-parte* passed u/s 144/147 of the Act which shows that the assessee had not made proper compliance before the Id. Assessing Officer during the proceedings. It is also observed that one of the additions made by the Id. Assessing Officer is towards unexplained money u/s 69A of the Act received from M/s. Dharmik Vintrade Pvt. Ltd.. The assessee filed the paper book containing various details including ledger account, sales bills, bank statements of M/s. Dharmik Vintrade Pvt. Ltd., to show that amount was received against the sale of shares. These documents were not placed before the lower authorities. Interests of justice would be met if the matter is restored back to the file of the jurisdictional Assessing Officer, who shall carry out the necessary exercise of verification of all these details and then decide in accordance with law. The assessee has given an undertaking in the affidavit dt. 03/06/2024 that it shall make due compliance before the lower authorities. We direct the assessee to

be compliant and not to take adjournment and should appear on the very first date of hearing unless otherwise for a *bonafide* cause and furnish the details in support of his grounds. Ld. Assessing Officer should ensure that the assessee is provided with reasonable opportunity of being heard.

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

Order pronounced in the Court on 12th June, 2024 at Kolkata.

Sd/-

**(PRADIP KUMAR CHOUBEY)
JUDICIAL MEMBER**

Sd/-

**(DR. MANISH BORAD)
ACCOUNTANT MEMBER**

Kolkata, Dated 12/06/2024

**SC Sp/8*

आदेश की प्रतिलिपि अग्रेषित/ Copy of the Order forwarded to :

1. अपीलार्थी / The Assessee
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata