

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “ B ” BENCH**

**Before: Shri T.R. Senthil Kumar, Judicial Member  
And  
Shri Narendra Prasad Sinha, Accountant Member**

**ITA No.276/Ahd/2020  
Assessment Year: 2015-16**

The I.T.O, Ward-1(1)(4), Vadodara.  <b>(Appellant)</b>	Vs	Divine Entertainment Ltd. B/3, Trupti Apartment, B/h. Old Gujarat High Court, Navrangpura, Ahmedabad-380009.  <b>PAN:AAACD6670J (Respondent)</b>
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**Revenue Represented: Shri Aarsi Prasad, Sr-DR  
Assessee Represented: None**

Date of hearing : 10.07.2024  
Date of pronouncement : 16.07.2024

**आदेश/ORDER**

**PER T.R. SENTHIL KUMAR, JUDICIAL MEMBER**

This appeal is filed by the Revenue as against the appellate order dated 27.01.2020 passed by the Commissioner of Income Tax (Appeals)-1 Ahmedabad, arising out of the exparte assessment order passed under section 144 of the Income-tax Act, 1961 [hereinafter referred to as 'the Act'] relating to the Asst. Year 2015-16.

2. The Revenue has raised the following grounds of appeal:

*(1) That the CIT(A) has erred in law and in facts in reducing the amount of estimated income from Rs. 14,95,95,496/- to Rs.2.24.34.837/- even though rejection of books of accounts has been confirmed*

*(2) That the CIT(A) has erred in not entirely appreciating the facts mentioned in the remand report, including that certain parties have denied for transactions with the assessee company.*

*(3) That the order of the CIT(A) is not acceptable in as much as it has failed to consider the facts that assessment order was passed u/s 144 after providing adequate opportunities to the assessee and that the assessee now been regarded for its non-compliance*

*(4) It is, therefore, prayed that the order of ld. CIT(A) may be set aside and that of the Assessing Officer be restored.*

## 2.1 Additional Ground raised by the Revenue is follow:

*On perusal of the case records, it is noticed that the Director of the assessee company had signed Form No.35 and submitted before the Ld.CIT(Appeal) on 23.01.2018. In spite of the facts that Shri Aushim Khetarpal was not a director of the assessee company **at the time of appeal filed by the assessee before the CIT(Appeal), as the Company Master Data shows that Shri Aushim Khetarpal was the Director of the assessee company for the period of 01.04.2000 to 15.06.2016, hence the appeal of the assessee before the CIT(Appeal) was not maintainable.** It is therefore, prayed that order of the CIT(Appeal) may be set aside and that of the Assessing Officer be restored.*

3. In the previous hearings of the above appeal on 17.01.2024, the Ld. Counsel for the assessee Shri Parin Shah, submitted that he is withdrawing his Letter of Authority and fresh notice be sent to the assessee. Thus notice was sent by RPAD for the next hearing on 15.02.2024 and served on the assessee, however None appear on behalf of the assessee. In the next hearing on 28.03.2024 the Ld.DR directed to file the necessary evidences to substantiate the additional grounds of appeal raised by the Revenue and the case was adjourned on 04.04.2024. After three adjournments again the case is listed for hearing today. However, None appear on behalf of the assessee and Ld.CIT-DR Shri Aarsi Prasad, for the Revenue submitted before us that the company master data from the website of Corporate Affairs, wherein Shri Aushim Khetarpal was the Director of the Company between 01.04.2000 till 15.06.2016 only. Whereas as per the Form No.35 filed on 23.01.2018 before the

Ld.CIT(A) was filed digitally signed by Shri Aushim Khetarpal who is not a Director during that period. Therefore, the appeal filed by the assessee is not maintainable, since Shri Aushi, Khetarpal was not Director of assessee's company at that point of time Hence, the appellate order passed by the Ld.CIT(A) is hereby set-aside and Department appeal is hereby allowed.

**4. In the result, the appeal filed by the Revenue is allowed.**

**Order pronounced in the open court on 16/07/2024**

**Sd/-  
(NARENDRA PRASAD SINHA)  
ACCOUNTANT MEMBER**

(True Copy)

**Sd/-  
(T.R. SENTHIL KUMAR)  
JUDICIAL MEMBER**

**Ahmedabad : Dated 16/07/2024**

*Manish*