

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH “SMC”, MUMBAI  
BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER  
AND  
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.431/M/2024  
Assessment Year: 2015-16**

<b>Dimension Consulting Private Limited</b> 701, Jullian Alps, B Wing, Bhakti Park, Wadala (East), Mumbai- 400037. <b>PAN: AAECD1724B</b>	Vs.	<b>ITO- Ward- 6(2)(3)</b> Mumbai- 400037.
(Appellant)		(Respondent)

**Present for :**

**Assessee by** : Shri Govind Aggarwal, A.R.

**Revenue by** : Shri R. R. Makwana- SR. D.R.

Date of Hearing : 18 . 06 . 2024

Date of Pronouncement : 25 . 07 . 2024

**O R D E R**

**Per: Ratnesh Nandan Sahay, Accountant Member:**

1. This appeal has been filed by the appellant against the Order of the Ld. CIT (Appeals) passed u/s. 250 of the Income Tax Act [the ‘Act’ in short] vide DIN & Order No. ITBA/NFAC/S/250/2022-23/1051041251(1) Dated 21/03/2023 for the Assessment Year 2015-16.

2. Following grounds of appeal have been raised by the appellant:

1. *“Because, order of ld. CIT (Appeals) is bad in law and against the facts and circumstances of the case.*
2. *Because, Id. CIT (Appeals) failed to appreciate that none of the notices of hearing had been sent at the address specifically mentioned on Form 35 for communication, beside company had no knowledge of any date of hearing thus, assessee was prevented with sufficient cause to attend the proceedings.*
3. *Because, Assessee Company is having operations at Ghaziabad, where director/regular AR/Auditor are also residing and trying to change its registered office since long, thus assessee was solely dependent on the AR at Bombay who apparently was not much conversant with tax proceedings and assessee came to know about the impugned order only on the engagement of new counsel.*
4. *Because learned Commissioner of Income Tax (Appeals) failed to appreciate that assessee had discharged onus relating to the addition of loan of Rs. 33,00,000/- with interest taken from M/s Doyen Commercial Private Limited and Mr. Jagdish Prasad Gupta, thus assessee had strong a case on the merit though unfortunately he could not present his case in the exceptional circumstances.*
5. *The Appellant crave leave to add, amend, alter and/or modify the grounds with the leave of the Hon'ble Court.*

*It is therefore humbly prayed that in the interest of justice, matter may kindly be restore back to the file of the Ld. CIT(A) for hearing the matter on merits with the directions deemed fit to the Hon'ble Court.”*

3. The facts of the case, in brief, are that the return of income for the assessment year 2015-16 was filed by the assessee company declaring a

loss of Rs.19,584/-. The return was processed u/s. 143(1) of the act and thereafter, the case was selected for scrutiny under CASS to verify the large increase of unsecured loans and sundry creditors. Statutory notices u/s. 142(1) and 143(2) were issued and served to the assessee from time to time. During the assessment proceedings, it was noticed by the Ld. AO that during the year under consideration the assessee showed short term borrowings of Rs.2,84,00,000/- and trade payable of Rs.2,43,49,771/- in the balance sheet. When the assessee was asked to prove the identity, genuineness of transactions and the credit worthiness of the parties from whom loans were taken, the assessee submitted as under:-

<b>Particulars.</b>	<b>Head of accounts</b>	<b>Balance as on 31.3.2015.</b>
M/s. Doyen Commercial Pvt. Ltd.	Long term borrowings.	31,21,082/-
M/s. Arun Manohar Tie Up.	Advances received from customer.	35,00,000/-
M/s. Gupta Probuild Pvt. Ltd.	Advances received from customer	42,00,000/-
M/s. Jagdish Prasad Gupta.	Advances received from customer.	16,20,000/-

4. When further examined, it was found by the Ld. AO that M/s. Doyen Commercial Pvt. Ltd. and M/s. Arun Manohar Tie Up. Pvt. Ltd. were Kolkata based companies and thus, issued notice u/s. 133(6) to both the parties on their Kolkata addresses. However, it was found that the address

of the company, M/s. Doyen Commercial Pvt. Ltd., was given as Chander Nagr, Near Community Centre, New Delhi. Further, it was found by the Ld. AO in the reply filed by M/s. Doyen Commercial Pvt. Ltd. that the taxable income of the company for the assessment year 2015-16 was shown at Rs.8.85 Lakhs, whereas, the reserves were shown at Rs.31.66 Crores. M/s. Doyen Commercial Pvt. Ltd. did not submit any breakup of its reserve despite given several opportunities. In the case of M/s. Arun Manohar Tie Up. Pvt. Ltd., notice u/s. 133(6) was never received till date and it was found that M/s. Arun Manohar Tie Up. Pvt. Ltd. showed income at Rs.306/- only whereas loan position as mentioned in the ledger A/c. was at Rs.35 Lakhs. Doubting the identity of the party and their credit worthiness, the AO issued a commission of enquiry u/s. 131 of the Act to Additional D.I.T. (Investigation) Kolkata. However, no compliance was made either by M/s Doyen Commercial Pvt. Ltd. or M/s Arun Manohar Tie Up. Pvt. Ltd. Accordingly, assessee was show caused as to why the advance/loan taken from these two parties should not be disallowed as the assessee has not fulfilled all the three ingredients required u/s. 68 of the Income Tax Act. In the case of M/s. Arun Manohar Tie Up. Pvt. Ltd., the assessee submitted that the loans of Rs.35 Lakhs was taken in the assessment year 2014-15 and that is why it was beyond the purview of scrutiny. Similarly, loan taken from M/s. Gupta Pro Building Pvt. Ltd. the Ld. AO has noted in the assessment order that the

loan was received by the assessee in the assessment year 2014-15 and therefore, it is not falling in the assessment year under consideration. The AO, thus, made no addition against these companies. In the case of M/s. Jagdish Prasad Gupta, the AO added a sum of Rs.2 Lakh on similar ground that the assessee has failed to substantiate the genuineness of the transaction, identity of the parties and its credit worthiness.

5. Now, coming to the disallowance of interest expenses, the Ld. AO added a sum of Rs.23,425/- on the ground that the assessee had paid this interest to M/s. Doyen Commercial Pvt. Ltd. and since, the transaction with this party itself was in doubt, the interest paid to that party cannot be allowed.
6. Aggrieved by the order of the Ld. AO, the assessee filed appeal before the Ld. CIT (A) who dismissed the appeal ex-parte on the ground that the assessee did not appear before him despite several notices were issued to him and did not even bother to pursue his appeal in any productive manner.
7. Aggrieved by the order of the Ld. CIT (A), the appellant has filed this appeal. During the appellate proceeding before us, the A.R. filed an undertaking before us in the form of affidavit duly signed by the Director of the company, Mr. Ram Niwas Bansal that one more opportunity may kindly be provided to him to explain his case before the Ld. CIT (A) and he will ensure the compliance. We, accordingly, remand the matter back

to the file of the Ld. CIT (A) to provide the appellant the opportunity of being heard and decide the issue accordingly.

8. In the result, the appeal is allowed for statistical purposes.

**Order pronounced in the open court on 25.07.2024.**

**Sd/-  
AMIT SHUKLA  
JUDICIAL MEMBER**

**Sd/-  
RATNESH NANDAN SAHAY  
ACCOUNTANT MEMBER**

Mumbai, Dated: 25.07.2024.  
*Snehal C. Ayare, Stenographer*

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.