

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B', NEW DELHI**

**BEFORE SH. SAKTIJIT DEY, VICE PRESIDENT AND
SH. M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No. 3375/Del/2023
(Assessment Year : 2017-18)

Erumm Marketing Pvt. Ltd. 147, Vardman Sunrise Plaza, Vasundhara Enclave New Delhi – 110 096 PAN No. AABCE 3009 P (APPELLANT)	Vs.	DCIT Circle – 5(1)(1), Gautam Budh Nagar Uttar Pradesh (RESPONDENT)
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Assessee by	Dr. Pawan Malhan, MD
Revenue by	Ms. Harpreet Kaur, Sr. D.R.

Date of hearing:	07.08.2024
Date of Pronouncement:	29.08.2024

ORDER

PER M. BALAGANESH, ACCOUNTANT MEMBER :

1. This appeal in ITA No.3375/Del/2023 for A.Y. 2017-18 arises out of the order by National Faceless Appeal Centre (NFAC), Delhi in appeal No. NFAC/2016-17/10026644 dated 06.10.2023 (hereinafter referred to as Id CIT(A) in short) against the order of assessment passed u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) by the Assessing Officer (hereinafter referred to as Id. AO).

2. On behalf of the assessee, Shri Pawan Malhan, Managing Director of the assessee company appeared in person. The additions that are being contested are as under:-

(i). Challenging the disallowance of deduction under section 80G of the Act in respect of contribution made to Prime Minister's National Relief Fund - Rs.43,87,344/-

(ii). Unexplained investment in mutual funds under section 69 of the Act - Rs.1,75,98,261/-.

3. We have heard the rival submissions and perused the material available on record. The return of income for A.Y. 2017-18 was filed by the assessee company on 25.10.2017 declaring taxable income of Rs.33,80,98,110/-. The return was selected for limited scrutiny and notice under section 143(2) of the Act was issued on 10.09.2018 for examining the deduction under Chapter - VIA and expenses incurred for earning exempt income. The assessee while accessing the 'E-proceeding' in Income Tax E-filing Portal, observed that there was no content or facility to upload the requisite information/details. Accordingly, the assessee was forced to submit all the requisite information/details to the Jurisdictional Assessing Officer on 14.09.2018 in his official email. The Managing Director of the assessee submitted that the Corporate Office of the assessee company was completely sealed by the Telangana Police since 11.03.2019 and all the records, documents, data, computers, etc. were impounded and the concerned officials of the assessee company were denied access to any of the records/documentation pertaining to the assessee

company. The Managing Director of the assessee company was also taken into judicial custody by the Telangana Police from 19.08.2019 to 29.04.2020. The Enforcement Directorate had also initiated an ECIR against the assessee company based on FIR registered by the Police against which, the ED has seized the properties and attached all the bank accounts and taken possession of the amounts from the bank accounts of the assessee company. The Writ Petition filed by the assessee against such action is pending before the Hon'ble Delhi High Court. In view of these factors, all the notices could not be complied with by the assessee company before the learned AO and ultimately the assessment stood completed by disallowing the deduction claimed under section 80G of the Act in the sum of Rs.43,87,344/- towards contribution to Prime Minister National Relief Fund and unexplained investment in Mutual Funds under section 69 of the Act of Rs.1,75,98,261/-. The assessee preferred an appeal before the learned CIT(A) and had engaged the services of a Chartered Accountant. But the concerned Chartered Accountant neither complied with the notices nor appraised the assessee with regard to the hearing notices. The services of such Chartered Accountant were later discontinued by the assessee. Thereafter, the assessee looked in to the Income Tax Portal in the end of 2023, wherein it was noticed that the learned CIT(A) had already dismissed the appeal of the assessee but the respective order was not available for downloading. Thereafter, a grievance was registered through the Income Tax Portal and order dated 06.10.2023 was sent in email to the assessee on 08.11.2023. Thereafter, the assessee had

filed the appeal before this Tribunal. Hence, it could be seen that the appeal was dismissed by the learned CIT(A) for non prosecution without adjudicating the issues on merits. Hence, we deem it fit and appropriate to restore this appeal to the file of learned CIT(A) for *denovo* adjudication in accordance with law. Needless to mention that the assessee be given reasonable opportunity of being heard. The assessee is also given liberty to furnish fresh evidences, if any, in support of its contentions. With these directions, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 29.08.2024

**Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT**

**Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER**

Date:- 29.08.2024

*Priti Yadav, Sr. PS**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI