

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

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER  
AND  
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

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|----------------------------------|
| <b>ITA No. 1277/Bang/2024</b>    |
| <b>Assessment Year : 2018-19</b> |

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| M/s. Innovior Advisory Pvt. Ltd.,<br>No. F701, 7 <sup>th</sup> Floor,<br>Falguni Block Olety Landmark,<br>Pipeline Road,<br>J C Nagar,<br>Bangalore – 560 086.<br><b>PAN: AAECI1592C</b> | <b>Vs.</b> | The Income Tax<br>Officer,<br>Ward – 3(1)(3),<br>Bangalore. |
| <b>APPELLANT</b>   |            | <b>RESPONDENT</b>   |

|             |   |  |
|-------------|---|--|
| Assessee by | : | Shri Deepak Chopra, CA                             |
| Revenue by  | : | Shri Ganesh R Ghale, Standing<br>Counsel for Dept. |

|                       |   |            |
|-----------------------|---|------------|
| Date of Hearing       | : | 05-08-2024 |
| Date of Pronouncement | : | 18-09-2024 |

**ORDER**

**PER SOUNDARARAJAN K., JUDICIAL MEMBER**

This is an appeal filed by the assessee challenging the order of the NFAC dated 13/05/2024 in respect of Assessment Year 2018-19.

**2.** The brief facts of the case are that the AO made an assessment u/s. 143(3) of the Act in which he had estimated the share premium received by the assessee by following the Net Asset Value method rejecting the value adopted by the assessee under the Discounted Cash Flow method.

**3.** As against the said order of the Ld.AO, assessee filed an appeal before the Ld.CIT(A) by raising various grounds. The Ld.CIT(A) had dismissed the appeal for the non-appearance of the assessee and therefore the assessee preferred this appeal before this Tribunal with the following grounds.

*“1. The orders of Learned CIT(A) is bad in law and liable to be quashed for: non-consideration of material on record and submissions of the appellant want of application of principles of natural justice.*

*(Tax Effect of above ground: 15,98,397/-)*

*2. The learned Commissioner of Income Tax (Appeals) has erred in dismissing the appeal and hereby confirming the order passed by Assessing Officer. The order passed by learned assessing officer being bad in law and void-ab-initio was required to be quashed instead of being confirmed.*

*(Tax Effect of above ground: 15,98,397/-)*

*Without prejudice:*

*3.1 In any case and without prejudice, the learned Commissioner of Income-tax (Appeals) has erred in confirming the action of Assessing Officer in making the addition of Rs. 87,27,212/- to the returned income of the appellant u/s 56(2) (viib) of the act.*

*3.2 On the facts and circumstances of the case and the law applicable, the shares issued by the appellant were at fair market value and the addition made u/s 56(2) (viib) of the act being wholly erroneous both in facts and bad in law is to be deleted.*

*(Tax Effect of above ground: 15,98,397/-)*

*4.1. The authorities below have erred in rejecting the discounted cash flow method adopted by the appellant for valuation of shares and have also erred in adopting Net Asset value method for computing the fair market value of the shares of the appellant. On proper appreciation of facts and the law applicable, the appellant being in service sector the Net Asset Value Method is not the appropriate method of valuation and the same is to be rejected and the valuation method by adopted by appellant is to be accepted.*

*4.2. The authorities below have erred in holding that the value adopted by the appellant is higher than the Fair Market Value. On proper appreciation of facts and the law*

*applicable, the valuation is done by Chartered Accountant, an expert in valuation and same should have been accepted without any variation and the learned Commissioner of Income-tax (A) should have upheld the Fair Market Value as adopted by the appellant.*

*(Tax Effect of above ground: 15,98,397/-)*

*5. The learned Commissioner of Income-tax (Appeals) has erred in confirming the levy of interest u/s.234B. The interest having levied been erroneously is to be deleted.*

*(Tax Effect of above ground: 4,05,210/-)*

*6. In view of the above and on the grounds to be adduced at the time of hearing it is requested that the impugned order passed by the Assessing Officer be quashed or atleast the addition made u/s 56(2)(viib) be deleted, the valuation as done by the appellant be accepted and the interest levied be also deleted.*

*(Tax Effect of above ground: 15,98,397/-)”*

**4.** At the time of hearing, the Ld.AR made a submission that the notices sent by the Ld.CIT(A) was not received by the assessee since the same were sent to the old auditor's email ID and therefore the non-appearance of the assessee before the Ld.CIT(A) is neither willful nor wanton and prayed to grant one more opportunity of hearing before the Ld.CIT(A).

The Ld.DR relied on the orders passed by the lower authorities and prayed to dismiss the appeal.

**5.** We have heard the arguments of both the sides and perused the records.

**6.** As seen from the appellate order, the Ld.CIT(A) had dismissed the appeal solely on the ground that the assessee had not appeared for the following three hearings i.e. 13/03/2023,

17/04/2023 and

23/04/2024.

**7.** We have seen that the Ld.CIT(A) had granted three hearings within the period of two months and decided the appeal ex-parte.

**8.** We accepted the reason stated by the Ld.AR for non-appearance of the assessee before the Ld.CIT(A) and therefore we are inclined to set aside the ex-parte order of the Ld.CIT(A) and remit the issue to the file of Ld.CIT(A) for deciding the appeal on merits as expeditiously as possible after granting a reasonable opportunity of being heard to the assessee.

In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 18<sup>th</sup> September, 2024.

Sd/-  
(WASEEM AHMED)  
Accountant Member

Sd/-  
(SOUNDARARAJAN K.)  
Judicial Member

Bangalore,  
Dated, the 18<sup>th</sup> September, 2024.  
/MS /

Copy to:

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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