



**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH "B", LUCKNOW**

**BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER AND
SHRI SUBHASH MALGURIA, JUDICIAL MEMBER**

ITA No.89/LKW/2024
(Assessment Year: 2016-17)

Medhavi Sports Pvt. Ltd 93/17 Grain Market Ganesh Ganj, Uttar Pradesh-226001.	v.	DCIT, Kanpur Laxmi Niwas 10/503 Allenganj, Uttar Pradesh- 208001.
PAN:AAKCM1000D		
(Appellant)		(Respondent)

Appellant by:	Shri Ashish Jaiswal, Adv		
Respondent by:	Shri Manu Chaurasia, CIT(DR)		
Date of hearing:	17	09	2024
Date of pronouncement:	19	09	2024

ORDER

PER ANADEE NATH MISSHRA, A.M.:

The present appeal has been filed by the assessee challenging the impugned order dated 19/12/2023 passed by the learned Commissioner of Income Tax (Appeals)-4, Kanpur, ["learned CIT(A)"] for the assessment year 2016-17.

2. In this appeal, the assessee has raised the following grounds: -

"1. That the Ld. CIT(A) has erred in passing exparte order without giving any finding on legal issue as well as merit arising from the grounds of appeal.

2. That the Ld. CIT(A) has erred in passing exparte order without giving proper and adequate opportunity to the appellant.

3. That the assessment proceeding initiated and order passed u/s 153C of the Income Tax Act, 1961 is without jurisdiction.

4. That the Ld. AO as well as Ld. CIT(A) has erred in confirming addition of Rs.2,04,00,000/- on account of unsecured loan u/s 68 of the Income Tax Act, 1961.

5. That the Ld. AO as well as Ld. CIT(A) has erred in confirming addition of Rs.6,12,000/- on account of commission on unsecured loan u/s 69C of the Income Tax Act, 1961.

6. That the Ld. AO as well as Ld. CIT(A) has erred in confirming addition on the basis of third party statement without brining on record any corroborative material.

7. That the Ld. AO as well as Ld. CIT(A) has erred in confirming addition without cross examination of the person whose statement has been relied upon for making addition violating the principle of audi alteram partem.

8. That the Ld. AO has erred in making addition without establishing the live nexus of allegation with the appellant or establishing the fact that the appellant own unaccounted money has been ploughed back in the guise of unsecured loan.

9. That the Ld. AO has erred in making addition with predetermined and preconceived mind on the basis of information from the investigation wing without brining any material evidence on record.

10. That the assessment framed u/s 153C with approval u/s 153D of Jt CIT, Central Circle is illegal as being without jurisdiction.

11. That the appellant craves leave to introduce modify or withdraw any ground of appeal with your honours kind permission.”

3. In this case, the assessment order dated 30/12/2021 was passed u/s 153C of the Income Tax Act, 1961 (hereinafter “the Act”) whereby the assessee’s total income was determined of Rs.2,10,12,000/-. The assessee had not filed any return of income. The aforesaid additions made in the assessment order included an amount of Rs.2,04,00,000/- on account of unsecured loan u/s 68 of the Act and an amount of Rs.6,12,000/- on account of commission on unsecured loan u/s 69C of the Act. The assessee filed an appeal in the office of the Ld. CIT(A). Vide impugned appellate order dated 19/12/2023, the Ld. CIT(A) dismissed the assessee’s appeal. The present appeal before us has been filed by the assessee against the aforesaid impugned appellate order dated 19/12/2023 of the Ld. CIT(A).

4. At the time of hearing before us, the Ld. Counsel for the assessee submitted that the Ld. CIT(A) has not passed a speaking order on merits of the additions made. He further submitted that

the assessee's appeal was dismissed in limine for want of prosecution without any discussion on the merits of the additions. He submitted that the issues in dispute should be restored back to the file of the Ld. CIT(A) with a direction to pass a speaking order on merits of the case after providing reasonable opportunity to the assessee. The Ld. CIT-DR for Revenue expressed no objection to this.

5. On perusal of the impugned appellate order dated 19/12/2023 of the Ld. CIT(A), we find that the Ld. CIT(A) had issued notices, which however, were not complied with by the assessee. Taking adverse view of non-compliance from assessee's side the Ld. CIT(A) dismissed the assessee's appeal for want of prosecution. However, the Ld. CIT(A) has statutory duty, prescribed u/s 250(6) of the Act to pass a speaking order on the merits of the case whether or not there was any representation from the assessee's side. The order of the Ld. CIT(A) in disposing of the assessee's appeal, is required to be in writing, and it is and the order is further required to contain the point for determination, the decision thereon and the reason for the decision. Thus, it is the statutory duty of the Ld. CIT(A) to pass a speaking order on merits of the case. Thus, dismissing the assessee's appeal in limine, for want of prosecution, without going into the merits of the case was erroneous on the part of the Ld. CIT(A).

6. In view of the foregoing and as representatives of both sides are in agreement, we set aside the impugned appellate order dated 19/12/2023 of the Ld. CIT(A) and we restore the issues in dispute to the file of the Ld. CIT(A) with a direction to pass denovo order in accordance with law, after providing reasonable opportunity to the assessee, in conformity with section 250(6) of

the Act. This appeal is disposed off in accordance with aforesaid direction.

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

Order pronounced in the open Court on 19/09/2024.

Sd/-
[SUBHASH MALGURIA]
JUDICIAL MEMBER

Sd/-
[ANADEE NATH MISSHRA]
ACCOUNTANT MEMBER

DATED: 19/09/2024

Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR
5. Guard file

//True Copy//

By order

Assistant Registrar