

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA

**Shri Sonjoy Sarma, Judicial Member
Shri Rakesh Mishra, Accountant Member**

**I.T.A. No. 937/Kol/2024
Assessment Year: 2012-13**

Clitoris Marketing Private Limited,
1, Lushun Sarani, 13th Floor,
Room No. 1309A, Kolkata - 700073
[PAN: AA ECC7737M].....**Appellant**

vs.

TRO-2, Kolkata..... Respondent

Appearances by:

Assessee represented by : None

Department represented by : Sailen Samadder, Addl. CIT, Sr. DR

Date of concluding the hearing : October 07, 2024

Date of pronouncing the order : October 08, 2024

ORDER

Per Sonjoy Sarma, Judicial Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2012-13 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the Learned Commissioner of Income Tax (Appeals) (in short 'the Learned. CIT(A)'), National Faceless Appeal Centre (NFAC), Delhi, dated 15.09.2023 arising out of Assessment Order dated 17.03.2015, passed under Section 144 of the Act.

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

"1. That on the facts and in the circumstances of the case, the Ld. AO erred in adding back Share Capital and Securities Premium to the tune of ₹ 1,00,00,000/- to the taxable income.

2. That on the facts and in the circumstances of the case, the assessment order should be treated as null and void as it was not served within reasonable time.

3.. That the assessee craves leave to adduce further grounds on or before the hearing of the appeal."

3. Brief facts of the case are that the assessee company filed its return of income for the A.Y. 2012-13 on 30.09.2012 declaring total income of ₹ 'Nil'. The case of the assessee was selected for scrutiny and followed by notice issued under Section 143(2) and 142(1) of the Act. However, the assessee failed to comply with these notices. Further, summons under Section 131 of the Act were issued to the Directors of the assessee company but they too did not respond. Consequently, the assessment was completed ex parte under Section 144 of the Act.

4. Dissatisfied with the above order, the assessee filed an appeal before the Learned CIT(A) though with a delay of 19 days. Despite notice being issued by the Learned CIT(A), the assessee did not appear to argue the case. Therefore, the Learned CIT(A) dismissed the appeal of the assessee sustaining the addition made by the Assessing Officer.

5. Aggrieved by the order of Learned CIT(A), the assessee is in appeal before this Tribunal. Despite the notice being issued from Registry regarding pendency of the appeal, the assessee failed to appear before the Tribunal leading to the matter being decided ex-parte based on material available on record and the submissions made by the Ld. DR. Upon hearing the submission of the Ld. DR and examining the facts of the case. It is noted that although the assessment order and the order of the Learned CIT(A) were passed ex parte due to non-cooperation by the assessee at the various stages of the proceedings. Considering the facts and circumstances, we find it appropriate to remand the entire matter back to the file of the Learned Assessing Officer with a direction to examining the

issue afresh after providing assessee with a reasonable opportunity of being heard.

6. Accordingly, appeal by the assessee allowed for statistical purposes and assessment order was set aside with the above direction. In terms of the above, appeal of the assessee is allowed for statistical purposes.

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

Kolkata, the 8th October, 2024.

Sd/-
[Rakesh Mishra]
Accountant Member

Sd/-
[Sonjoy Sarma]
Judicial Member

Dated:08.10.2024.
AK, PS

Copy of the order forwarded to:

- 1.Clitoris Marketing Private Limited
- 2.TRO-2, Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches