

IN THE INCOME TAX APPELLATE TRIBUNAL

"E" BENCH, MUMBAI

BEFORESHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER &

SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER

ITA No.4738/MUM/2024

(Assessment Year :2020-21)

Eleganz Interiors Ltd.,

Gala 1 to 7, Sarita,
Prabhat Industrial Estate
Western Express Highway
Dahisar S.O,
Maharashtra - 400068.
PAN - AAACE1460F

..... Appellant

v/s

DCIT - 4(2)(1)

Aayakar Bhawan,
Mumbai - 400020
Maharashtra.

..... Respondent

Assessee by : Shri Margav Shukla &
Shri Shubham Shah

Revenue by : Shri Sunil Agawane, Sr.DR

Date of Hearing - 29/10/2024

Date of Order - 05/11/2024

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The present appeal has been filed by the assessee challenging the impugned order dated 25/07/2024, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [*learned CIT(A)*], for the assessment year 2020-21.

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

1. *On given facts, circumstances and judicial pronouncements Ld. CIT Appeals erred in dismissing the appeal, without giving a reasonable time to the appellant to file its submission. Such ex- parte order passed is bad in facts and in law and liable to be set-aside.*

2. *On the given facts circumstances and judicial pronouncements Ld. CIT(A) erred in confirming the addition on account of Labour and Sub- Contract Charges on ad-hoc basis amounting to Rs.1,08,685/- without giving an opportunity of being heard. Such addition made is bad in facts and in law and liable to be deleted/reduced.*

3. *On the given facts circumstances and judicial pronouncements Ld CIT-(Appeals) erred in confirming the disallowance on account of Material purchased, on ad-hoc basis amounting to Rs 1,40,47,522/- without giving an opportunity of being heard. Such addition is bad in law and in facts and liable to be deleted/reduced.*

4. *On the given facts circumstances and judicial pronouncements Ld CIT - (Appeals) erred in confirming the disallowance on account of Freight and Transport Charges, on ad-hoc basis amounting to Rs 7,60,588/- without giving an opportunity of being heard. Such addition is bad in law and in facts and liable to be deleted/reduced.*

5 *On the given facts circumstances and judicial pronouncements Ld CIT - (Appeals) erred in confirming the disallowance on account of Professional Fee Site Charges, on ad-hoc basis amounting to Rs 11,14,035/- without giving an opportunity of being heard. Such addition is bad in law and in facts and liable to be deleted/reduced.*

6. *On the given facts circumstances and judicial pronouncements Ld CIT - (Appeals) erred in confirming the disallowance on account of Professional Charges, on ad-hoc basis amounting to Rs 15,25,413/- without giving an opportunity of being heard. Such addition is bad in law and in facts and liable to be deleted/reduced.*

7. *On the given facts circumstances and judicial pronouncements Ld CIT-(Appeals) erred in confirming the disallowance on account of Retainership Charges, on ad-hoc basis amounting to Rs 16,57,413/- without giving an opportunity of being heard. Such addition is bad in law and in facts and liable to be deleted/reduced.*

8. *The appellant craves leave to add, amend, alter or delete all or any of the previously mentioned grounds of appeal.*

3. We have considered the submissions and perused the material available on record. It is evident from the record that the learned CIT(A) has passed the order ex-parte due to the non-appearance of/on behalf of the assessee. From the perusal of the impugned order, it is evident that the learned CIT(A) issued three (3) notices of hearing to the assessee, however, the assessee did not comply with any of the notices. Now in appeal before us, the assessee is duly represented by the learned Authorised

Representative ("*learned AR*") and wishes to pursue the litigation against the addition made by the AO. During the hearing, the learned AR submitted that the hearing notices were sent by the learned CIT(A) to the email address of the employee who was not attending the office and therefore, the hearing notices remained unattended by the assessee. The learned AR further submitted that the appeal was filed before the learned CIT(A) on 28/10/2022 and the hearing notices were issued on 13/06/2024, 05/07/2024 and 15/07/2024, i.e. within a span of one month.

4. In view of the facts and circumstances as noted above, we are of the considered opinion that in the interest of justice and fair play, the assessee be hereby granted one more opportunity to represent its case on merits before the learned CIT(A). Consequently, we deem it fit and proper to set aside the impugned order and restore the matter to the file of the learned CIT(A) for *de novo* adjudication of the appeal on merits after consideration of all the details/submissions as may be filed by the assessee. Needless to mention no order shall be passed without affording reasonable opportunity of hearing to the parties. During the hearing, the learned AR undertook that the operational email address of the assessee shall be submitted to the learned CIT(A) and the hearing notice(s) issued on the same shall be complied with by the assessee. Accordingly, the learned CIT(A) is directed to issue the hearing notice(s) on the email address so furnished by the assessee, unless at a subsequent stage, the assessee wishes to change its email address for the purpose of communication of hearing notice, for which the assessee is directed to intimate the learned CIT(A) in advance. Thus, the

assessee is directed to appear before the learned CIT(A) on all the dates of hearing as may be fixed without any default. As the matter is being restored to the file of the learned CIT(A) for adjudication on merits, the other grievances raised by the assessee in the present appeal do not call for adjudication at this stage. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 05/11/2024

Sd/-
(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER

Sd/-
(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

MUMBAI, DATED: 05/11/2024

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Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar
ITAT, Mumbai