

**IN THE INCOME TAX APPELLATE TRIBUNAL
"F" BENCH, MUMBAI**

**SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 4607/MUM/2024
(Assessment Year: 2018-19)**

**Valiance Healthcare System Private
Limited**

58, 6th Floor, 62B, DR Gopalrao Deshmukh
Marg, Cumballa Hill, S.O, Mumbai - 400026
[PAN: AAECV9391E]

..... **Appellant**

Vs

DCIT Circle 5(3)(1)

Aayakar Bhavan, M.K. Road, New Marine
Lines, Mumbai – 400020.

..... **Respondent**

Appearance

For the Appellant/Assessee : None
For the Respondent/Department : Shri Solgy Jose T. Kottaram

Date

Conclusion of hearing : 16.10.2024
Pronouncement of order : 20.12.2024

ORDER

Per Rahul Chaudhary, Judicial Member:

1. By way of the present appeal the Assessee has challenged the order dated 15/07/2024, passed by the National Faceless Appeal Centre (NFAC), Delhi, [hereinafter referred to as the '**CIT(A)**'], whereby the Ld. CIT(A) had dismissed the appeal of the Assessee against the Assessment Order, dated 28/04/2021, passed under Section 143(3) read with Section 144B of the Income Tax Act, 1961 (hereinafter referred to as '**the Act**') for the Assessment Year 2018-19.

2. The Appellant has, inter alia, raised following grounds of appeal :

"1. a. The Ld. CIT (A) has erred in dismissing the appeal considering that the Appellant is not aggrieved with the

impugned order and not keen on pursuing this appeal without considering the facts and circumstances of the case, thus making the order bad in law.

b. *The Ld. CIT (A) has erred in passing an ex parte Order without issuing any show cause notice giving an opportunity of being heard and asking to cause why the appeal should not be dismissed. Therefore, order passed is bad in law and needs to be quashed.*

c. *The Ld. CIT(A) has erred in law and on facts by passing a non-speaking order in violation of the principles of natural justice and without providing any reasoning or addressing the specific grounds of appeal raised by the appellant."*

3. The relevant facts in brief are the appeal preferred by the Assessee against the Assessment Order dated 19/12/2007 passed under Section 143(3) of the Act was dismissed by the Ld. CIT(A) holding as under:

"4.6 *Considering the above, it is clear that the Appellant is not aggrieved with the impugned order and not keen on pursuing this appeal. Hence, I compel to proceed to decide the appeal based on the records available in my office and on merit of the case.*

Considering the records and merits of the case I have left with no option but to dismiss this appeal.

4.7 *Accordingly, the appeal of the Appellant is dismissed."*

4. Thus, the CIT(A) disposed off the appeal without adjudication upon the grounds raised by the Appellant/Assessee on merits. By way of ground reproduced ground Paragraph 2 above the Appellant is seeking setting aside ex-parte order passed by CIT(A).

5. During the course of hearing the Learned Departmental Representative supported the order passed by the CIT(A) and

submitted that since the Appellant did not participate the in appellate proceedings, the CIT(A) had no option but to dismiss the appeal. Sufficient opportunity of being heard was granted to the Appellant. However, the Appellant failed to avail the same. Therefore, the CIT(A) was justified in dismissing the appeal.

6. On perusal of the record, we find that the Appellant was proceeded ex-parte and that the CIT(A) had dismissed the appeal observing that the Appellant was not keen in pursuing the appeal. While the CIT(A) has recorded that the appeal is being decided on merits, there is no discussion in the order impugned about the grounds raised in appeal before the CIT(A). Thus, in effect the appeal has been dismissed by the CIT(A) for non-prosecution. In the case of Commissioner of Income Tax (Central), Nagpur Vs. Premkumar Arjundas Luthra (HUF): [2016] 240 Taxman 133 (Bombay)/[2017] 297 CTR 614 (Bombay)[25-04-2016], it has been held by the Hon'ble Bombay High Court that the provisions of the Act do not empower the CIT(A) to dismiss the appeal preferred by an assessee on account of non-prosecution. Accordingly, the CIT(A) was required to dispose of the appeal on merits. Therefore, we set aside the order, dated 15/07/2024, passed by the CIT(A) and restore the appeal to the file of the CIT(A) with the direction to decide the appeal on merits as per law after granting the Appellant reasonable opportunity of being heard. The Appellant has directed to cooperate in the appellate proceedings and not seek unnecessary adjournment. Further, the Appellant is also directed to file all the relevant submissions/documents/details on which the Appellant wishes to place reliance before the CIT(A) forthwith on receiving notice of hearing. It is clarified that in case the Appellant fails to enter appearance or file relevant documents/details/submission, the CIT(A) would be at liberty to adjudicate the appeal on merits

on the basis of material on record.

7. In terms of the above, Ground No. 1 (a) to (c) raised by the Appellant is allowed for statistical purposes whereas all the other grounds raised by the Appellant are dismissed as being infructuous.
8. In result the present appeal is allowed for statistical purposes.

Order pronounced on 20.12.2024.

Sd/-
(Girish Agrawal)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 20.12.2024
Poonam mirashi
Stenographer

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai