

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA

**SHRI SANJAY GARG, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 989/Kol/2024
Assessment Year: 2012-13**

**Ganapati Financial Consultancy
Services Pvt. Ltd.,**

159, Rabindra Sarani Room No. 3C,
Kolkata - 700007

[PAN: AAECG0724G]

..... **Appellant**

vs.

**Income Tax Officer,
Ward -9(2), Kolkata,
Aayakar Bhavan, P-7,
Chowringhee Square,
Kolkata - 700069**

..... **Respondent**

Appearances by:

Assessee represented by : Siddarth Agarwal, Advocate
Department represented by : Sailen Samadder, Addl. CIT Sr. DR

Date of concluding the hearing : 12.12.2024
Date of pronouncing the order : 18.12.2024

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. The present appeal preferred by the assessee emanates from the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (in short 'the Ld. CIT(A)] dated 04.03.2024, passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as the "Act") for Assessment Year 2013-14.

1.1 It is seen that the appellate order itself took into consideration an order u/s 144 of the Act dated 11.03.2015 passed by the Ld. AO. It is recorded in the Ld. AO's order that the case was selected for scrutiny on the ground of large quantum of share premium receipts. However, notices

u/s 143(2) and 142(1) of the Act issued apparently did not elicit any response from the assessee (paragraph 1 of Ld. AO's order). The Ld. AO also recorded that the summons issued to the Directors of the assessee company for personal attendance were also not complied with. Accordingly, the Ld. AO proceeded to pass a best judgment assessment and added Rs. 1,39,50,000/- on account of share capital and share premium.

2. Before the Ld. CIT(A) also the assessee failed on two counts; firstly, on account of not responding to as many as six notices fixing the case for hearing and also for not giving any cogent reason for filing the appeal belatedly by as many as 124 days. Needless to say, the Ld. CIT(A) affirmed the action of Ld. AO.

2.1 Aggrieved with this action, the assessee has approached the ITAT through relevant grounds of appeal:

“5. That under the facts and circumstances of the case the Learned CIT(Appeals) has erred in stating that “there is 124 days delay in filing of appeal. In Form No. 35, the appellant has stated that there is no delay in filing of appeal which is absolutely wrong. Therefore, the appeal is not admitted as there is no reasonable cause for delay in filing of appeal” even though the fact remains that the appeal was duly filed within the stipulated time.”

2.2. Before us, the Ld. AR argued that the assessee did not get any opportunity to present his case in as much as not only has the share premium amount been added but also the paid-up share capital amount has also been added. Accordingly, the Ld. AR specifically addressed Ground No. 5 and requested for an opportunity to present his case before the Ld. AO.

3. The Ld. DR, on the other hand, stated that the assessee should have been vigilant about his taxation matters and the authorities below had no option but to make and sustain the impugned addition.

4. We have considered the documents before us and also heard the Ld. AR/DR. It is felt that in the interest of substantive justice, this matter deserves to be remanded back to the file of Ld. AO for fresh adjudication. Needless to say, the Ld. AO would give an opportunity of being heard to the assessee and the assessee would do well to avail of such opportunities.

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

Order pronounced in the court on 18.12.2024

Sd/-
[Sanjay Garg]
Judicial Member

Sd/-
[Sanjay Awasthi]
Accountant Member

Dated: 18.12.2024.
AK, PS

Copy of the order forwarded to:

1. Ganapati Financial Consultancy Services Pvt. Ltd.,
2. Income Tax Officer, Ward -9(2), Kolkata
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches