

**THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI**

Before Sh. Saktijit Dey, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 1756/Del/2019 : Asstt. Year : 2008-09

M/s Anant Media Pvt. Ltd., Building No. 23, Nehru Place, New Delhi-110019	Vs	ACIT, Central Circle-20, New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAECA3461C		

Assessee by : None

Revenue by : Sh. Satpal Gulati, CIT DR

Date of Hearing: 18.01.2022

Date of Pronouncement: 03.03.2022

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of Id. CIT(A)-27, New Delhi dated 25.01.2019.

2. Following grounds have been raised by the assessee:

"1) The order of the Ld. Commissioner of Income Tax (Appeals) -I, New Delhi as well as the Ld. AO is bad in law, wrong on the facts and against the principles of natural justice.

2) That on the facts and in the circumstances of the case, the order of the Ld. CIT (Appeals) and Assessing Officer is against the legal principles of audi alteram partem and therefore the order is bad in law and needs to be quashed.

3) That on the facts and in the circumstances of the case, the Ld. Assessing Officer and the Ld. CIT(A) have erred in making the arbitrary addition which needs to be deleted.

4) That on the facts and in the circumstances of the case, even otherwise, the addition so made and

sustained by the CIT(A) on ex-parte basis is wrong, illegal .totally baseless and without any merits keeping in view the facts of the case, the submissions of the appellant, the relevant provisions of the law, the judicial pronouncements.”

3. The assessee filed return of income declaring total loss of Rs.4,95,25,480/- which has been revised to total loss of Rs.5,63,91,626/-. The assessment has been completed making an addition of Rs.3,05,00,000/- on account of share premium and loans.

4. The proceedings before the Id. CIT(A) were as under:

S. No	Date of Notice/show cause/ adjournment	Date of Hearing	Remarks
1	15.09.2016	06.10.2016	None attended, nor any request for adjournment was filed nor any submissions were furnished.
2	20.10.2016	03.11.2016	The request for adjournment was filed by the AR of the appellant on 3.11.2016
3	24.11.2016	06.12.2016	None attended, nor any request for adjournment was filed nor any submissions were furnished on the date. The request for adjournment was filed by the appellant on 09.12.2016.
4	03.04.2017	12.04.2017	None attended, nor any request for adjournment was filed nor any submissions were furnished.
5	3.11.2017	20.11.2017	None attended, nor any request for adjournment was filed nor any submissions were furnished.
6	06.04.2018	16.04.2018	The request for adjournment was filed by the appellant on 16.04.2018. The case was adj. to 02.05.2018.
7	03.05.2018	15.05.2018	The request for adjournment was filed by the appellant on 02.05.2018. The case was adj. to 15.05.2018. Nobody attended nor filed any adj. on 15.05.2018

8	17.05.2018	05.06.2018	None attended, nor any request for adjourned was filed nor any submissions were furnished.
9	21.06.2018	26.06.2018	A show cause notice was issued, but none attended, nor any request for adjourned was filed nor any submissions were furnished. On 28.06.2018 the AR of the appellant filed written submissions.
10	22.10.2018	25.10.2018	The request for adjournment was filed by the appellant on 25.10.2018. The case was adj. to 12.11.2018.
11	25.10.2018	12.11.2018	None attended, nor any request for adjourned was filed nor any submissions were furnished.
12	22.11.2018	29.11.2018	The request for adjournment was filed by the appellant on 29.11.2018. The case was adj. to 17.12.2018.
13	18.12.2018	24.12.2018	None attended, nor any request for adjourned was filed nor any submissions were furnished.
14	18.01.2019	24.01.2019	None attended request for adj. received on 24.01.2019 by speed post.

5. Aggrieved with the order of the Id. CIT(A) confirming the order of the Assessing Officer, the assessee filed appeal before the Tribunal on 01.03.2019 and revised Form 36 has been filed vide letter dated 11.03.2019. The notice of hearing was issued on 02.12.2021 fixing the date of hearing on 18.01.2022 at the address given in Form 36. No one attended on the date of hearing nor any adjournment letter was filed. We observe that there is no effect on payment of tax by the assessee as the assessed returned income culminated in loss of Rs.2.58 Crores. This only leads to conclusion that the assessee is aggrieved with the additions on a basis of principle and future effect of carry forward of losses. The assessee has failed to appear on 14 occasions before the Id. CIT(A) and has taken up the grounds before the Tribunal pertaining to legal principles of "*audi alteram partem*" and sustenance of order of the AO by the Id.

CIT(A) on "ex-parte" basis. We strongly believe that every assessee has a right to appeal before the authorities against any addition or disallowance made to the returned income, at the same time, it is least expected that the assessee would comply to the notices issued by the authorities in an appropriate way. The assessee having miserably failed to attend before the Id. CIT(A) has taken the grounds of "*audi alteram partem*" before us. While the grievance of the assessee is not being preempted by us, at the same time, we feel that the conduct of the assessee is clogging the already burdened justice delivery system. Hence, we hereby direct the assessee to pay an amount of Rs.10,000/- to the "Prime Minister's National Relief Fund" and approach the Id. CIT(A) for a fresh hearing *denovo* which shall be considered. The Id. CIT(A) is hereby directed to afford an opportunity of being heard to the assessee before conclusion of the proceedings.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order Pronounced in the Open Court on 03/03/2022.

Sd/-

(Saktijit Dey)
Judicial Member

Dated: 03/03/2022

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR