HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA-6-2023 (O&M)
Date of decision: 09.05.2023

Kandy Gold Private Limited ....Appellant

Vs.

Principal Commissioner of Income Tax, Gurgaon ....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Deepak Agrawal, Advocate
for the appellant.

****

Ritu Bahri, J. (Oral)

The appellant has come up in appeal against the order of the Income Tax Appellate Tribunal Delhi Bench "F' New Delhi dated 13.06.2022 (Annexure A-3) for the assessment year 2014-15.

A perusal of para No. 11 of the order dated 13.06.2022 (Annexure A-3) shows that the sufficient opportunity was granted to the appellant by the learned PCI through show cause notices issued under Section 263 of the Act, but the assessee did not appear or furnish any reply. In the absence of any reply, the learned PCIT had set aside the assessment order by giving direction to the Assessing Officer to give opportunity to the appellant and conduct an inquiry with respect to the limited scrutiny issue of large share premium received during the year. Keeping in view the said observation, the Tribunal dismissed the appeal.

On a specific query put to learned counsel for the appellant, he has not been able to dispute the fact that with respect to notice under Section 263 of the Act issued by the learned PCIT, the appellant neither appeared nor filed any reply.

The grievance of the appellant is that the share premium has been received in the year 2013-14 and it was reflected in the income tax return of that year. However, the same cannot be made basis for exercising revisional powers by the PCIT for the assessment year 2014-15.

Keeping in view this fact, order dated 13.06.2022 (Annexure A-3) passed by the Tribunal is set aside and the matter is remanded back to the PCIT to pass a well reasoned order after giving an opportunity to the appellant to file a detailed reply clarifying as to how share premium received by the appellant in the year 2013-14 can be taken as escaped income to initiate reassessment proceedings for the assessment year 2014-15.

Appeal is disposed of. Pending application, if any, also stands disposed of.

(RITU BAHRI)
JUDGE

09.05.2023 **(MANISHA BATRA)**
Divyanshi **JUDGE**

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**