

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'B' NEW DELHI**

**BEFORE SHRI R.S. SYAL, VICE PRESIDENT
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No.2146/Del/2018
Assessment Year: 2014-15**

M/s RK.G. Finvest Ltd. 22, Basement, Rajindra Park, New Delhi – 110060 PAN: AAACR3749Q	vs	ACIT, Circle 20(2), New Delhi.
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Appellant by	Shri Piyush Kaushik, Advocate Shri S.P. Singh, Advocate
Respondent by	Shri Vijay Kumar Jiwani , Sr. DR

Date of Hearing	29.06.2018
Date of Pronouncement	29.06.2018

ORDER

PER K. NARASIMHA CHARY, J.M.

This is an appeal by the assessee against the order dated 22.2.2018 in Appeal No.10642/223/CIT(A)/Del/2016-17 passed by the Ld. Commissioner of Income- tax (Appeals)-7, New Delhi (for short hereinafter called as "Ld. CITA").

2. Brief facts of the case are that the assessee is a non banking finance company as per its balance sheet. For the Asstt. Year 2014-15, they have filed their return of income on 27.11.2014 declaring a total loss of Rs.79,37,185/-. After scrutiny, the AO made an addition of Rs.24,35,29,705/- u/s 68 of the Income-tax Act, 1961 ("the Act").

3. Assessee preferred appeal to the learned CIT(A) and the learned CIT(A) recorded that the matter was repeatedly fixed for hearing to enable the assessee to explain and justify its position but the assessee has not attended on any of the dates for hearing, nor did they ever attempt to file any submission to explain its position to counter the action taken by the learned AO. In those circumstances, observing that the law will not help those, who are not vigilant, learned CIT(A) dismissed the appeal. Hence, the assessee is in this appeal before us.

4. It is the argument of the learned AR that no proper and adequate opportunity is given to the assessee during the appellate proceedings and the learned CIT(A) also did not deal with the grounds of appeal before him on merits.

5. Learned DR submitted that the assessee is a bogus company, controlled and managed by Shri S.K. Jain group and is engaged in providing the accommodation entries and in spite of granting best opportunities, the assessee failed to avail the same, as such, there was no option available to the learned CIT(A) to proceed with the matter ex parte.

6. We have gone through the record. The impugned order shows that notices were issued on 7 occasions to the assessee and on 6.12.2017 adjournment was sought by the assessee and the date was fixed to 20.12.2017. It is submitted on behalf of the assessee that though the notice was sent subsequently, it was not served on the assessee.

7. Be that as it may, when the assessee had not chosen to enter appearance before the learned CIT(A), no doubt the learned CIT(A) need not oblige the assessee and he could rightly have proceeded with the matter on

merits. Nothing prevents the Ld. CIT(A) to dispose of the matter on merits. However, learned CIT(A) neither adverted to the merits of the grounds pleaded before him nor to the averments of the assessment order for the purpose of ascertaining whether the assessment order could be sustained or not. Instead of doing so, learned CIT(A) dismissed the appeal in limine. In these circumstances, we are of the considered opinion that it is a fit case to grant one more opportunity to the assessee for presenting their case before the learned CIT(A) on merits without seeking any adjournment. We make it clear that should there be any default on the part of the assessee, no further opportunity should be given.

8. With this view, we set aside the order of the learned CIT(A) and remand it back to his file for the purpose of disposal on merits.

9. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 29th June, 2018

Sd/-
(R.S. SYAL)
VICE PRESIDENT

sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Dated: 29.06.2018
VJ

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

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