

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

**BEFORE SH. H.S. SIDHU, JUDICIAL MEMBER
AND
SH. T.S. KAPOOR, ACCOUNTANT MEMBER**

ITA No.4432/Del/2009
Assessment Year: 2001-02

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| Income Tax Officer, Ward-11(2), New Delhi | Vs. | M/s. Essex Marketing (P) Ltd., 22/55-56, Top Floor, West Patel Nagar, New Delhi |
| PAN : AAACE2115P | | |
| (Appellant) | | (Respondent) |

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|---------------|-------------------------------|
| Appellant by | Sh. Vijay Kumar Jiwani, Sr.DR |
| Respondent by | None |

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| Date of hearing | 16.07.2018 |
| Date of pronouncement | 17.07.2018 |

ORDER

PER T.S. KAPOOR, A.M.:

The present appeal has been filed by the Revenue against the order of CIT(A)-XIII, dated 14.09.2009 for the assessment year 2001-02.

2. None was present on behalf of the assessee and we noted from the order sheet that on various earlier occasions also none attended on behalf of the assessee. Therefore, vide order sheet entry dated 08.12.2014, the learned DR was directed to serve the notice. Letter dated 05.06.2018 written by Income Tax Officer, Ward-8(3), New Delhi, is placed on the file wherein he has confirmed that the Inspector of Ward -8(3) had affixed the notice

at the address of assessee as none was present at the given address.

3. From the above facts and circumstances, it is apparent that the assessee continued to deliberately avoid the appellate proceedings, therefore, the learned DR was asked to proceed with his arguments.

4. Learned DR invited our attention to the order of the learned CIT(A), who by just recording the submission of the assessee, held that the order passed by the Assessing Officer was null and void. The learned DR further stated that the order passed by the learned CIT(A) is a non-speaking order, which needs to be restored.

5. We have heard the learned DR and have gone through the materials available on record. We find that the Assessing Officer completed the assessment on 30.12.2008 passed under Section 144/147 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), in which, addition of Rs.6,89,50,000/- was made under Section 68 of the Act. Before the learned CIT(A), the assessee submitted that it has already changed its name to 'Aspire Trading Pvt. Ltd.' and had already filed return of income in that name, in which, a loss of Rs. 24720/- was declared. Therefore, it was stated that the assessment order passed by the Assessing Officer, Ward 11(2), was null and void as the assessee had filed its return of income with Ward - 2(2). The learned CIT(A), without bringing any material on record to the argument of the assessee, allowed the appeal to the assessee by holding that the order passed by the Assessing Officer was null and void. Order passed by the learned CIT(A) is a non-speaking order and is not based upon any

material placed on record. Moreover, the assessee is also not cooperating with the proceedings in the Tribunal to substantiate its claim, therefore, we deem it appropriate to remit the matter back to the file of the CIT(A), who should pass a fresh order based upon the relevant material, after affording opportunity to the Assessing Officer to comment on such material, if any.

6. In view of above, the appeal filed by the Revenue is allowed for statistical purposes.

The decision is pronounced in the open court on 17th July, 2018.

Sd/-

(H.S. SIDHU)

JUDICIAL MEMBER

Dated: 17th July, 2018.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Sd/-

(T.S. KAPOOR)

ACCOUNTANT MEMBER

Asst. Registrar, ITAT, New Delhi