

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

**BEFORE SH. R.K. PANDA, ACCOUNTANT MEMBER
AND
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA No.2517/Del/2015
Assessment Year: 2006-07

M/s HVR Alloys & Steels Pvt. Ltd., C/o M/s Malik & Co. (Advocates), 305, Thapa Nagar, Meerut (PAN AAACH0606C)	Vs	Assistant Commissioner of Income Tax, Circle -12 (1), New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Sanjay Malik, Advocate
Respondent by	Sh. S. S. Rana, CIT DR

Date of hearing:	05/09/2018
Date of Pronouncement:	05/09/2018

ORDER

PER R.K. PANDA, AM:

This appeal filed by the assessee is directed against the order dated 10.02.2015 of the CIT (A)-15, New Delhi relating to A. Y. 2006-07.

2. Although a number of grounds have been raised by the assessee, these all relate to the order of the CIT(A) in confirming the penalty of Rs.15,00,000/- levied by the Assessing Officer u/s. 271 (1)(c) of the IT Act.

3. Facts of the case in brief are that the assessee is a company and filed its return of income on 27.11.2006 declaring nil business income after

adjustment of brought forward business losses of Rs.26,68,777/-. The Assessing Officer completed the assessment u/s 143 (3) determining the total income of the assessee at Rs.40,40,495/-. The Assessing Officer subsequently initiated penalty proceedings u/s. 271(1) (c) of the IT Act. Rejecting the various explanations given by the assessee, the Assessing Officer levied penalty of Rs.15,00,000/- u/s 271 (1) (c) of the IT Act.

4. Since none appeared before the CIT(A) despite number of opportunities granted, the Ld. CIT (A), in his ex-parte order dated 10.02.2015, upheld the penalty levied by the Assessing Officer.

5. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

6. The Ld. Counsel for the assessee submitted that the order passed by the CIT(A) is an ex-parte order. He submitted that in the interest of justice assessee should be given one final opportunity. He also undertook that given an opportunity the assessee will appear before the CIT (A) to substantiate his case.

7. The Ld. DR on the other hand strongly opposed the arguments advanced by the Ld. Counsel for the assessee and submitted that despite eight opportunities granted by the CIT(A) the assessee took adjournments twice and on six occasions he never bothered to appear. The conduct of the assessee shows that it is not serious about the appeal. He submitted that the Ld. CIT (A) has decided the issue on merit. Therefore, the same should be upheld and the grounds raised by the assessee should be dismissed.

8. We have considered the rival arguments made by the both the sides and perused the material available on record. It is an admitted fact that despite repeated opportunities granted by the CIT(A), the assessee sought

adjournment twice and never bothered to appear before the CIT(A) on six occasions for which the Ld. CIT(A) was constrained to pass the ex-parte order. However, considering the under taking given by Ld. Counsel for the assessee that given an opportunity the assessee shall appear before the CIT(A) and considering the totality of the facts of the case, we, in the interest of justice, deem it proper to restore the issue to the file of the CIT (A) with a direction to grant one final opportunity to the assessee to substantiate its case. The assessee is also hereby directed to appear before the CIT(A) without seeking any adjournment under any pretext failing which the Ld. CIT (A) shall decide the issue as per fact and law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open court at the time of hearing itself i.e. on 05.09.2018.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

NEHA

Date:- 05.09.2018

Copy forwarded to:

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

Sd/-
(R.K. PANDA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	05.09.2018
Date on which the typed draft is placed before the dictating Member	05.09.2018
Date on which the approved draft comes to the Sr.PS/PS	05.09.2018
Date on which the fair order is placed before the Dictating Member for Pronouncement	05.09.2018
Date on which the fair order comes back to the Sr. PS/ PS	05.09.2018
Date on which the final order is uploaded on the website of ITAT	05.09.2018
Date on which the file goes to the Bench Clerk	05.09.2018
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	