

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : SMC : NEW DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.1462/Del/2019
Assessment Year: 2014-15

Green Overseas,
2525/7, Bagichi Raghunath,
New Delhi - 110066.

Vs. ITO,
Ward 63(5),
New Delhi.

PAN: AAGFG4970R

(Appellant)

(Respondent)

Assessee by	:	None
Revenue by	:	Shri S.L. Anuragi, Sr.DR
Date of Hearing	:	05.08.2019
Date of Pronouncement	:	07.08.2019

ORDER

This appeal by the assessee is directed against the *ex parte* order dated 26th December, 2018 of the CIT(A)-18, New Delhi, relating to Assessment Year 2014-15.

2. The assessee, in the various grounds of appeal, has challenged the *ex parte* order of the CIT(A) in sustaining the various additions made by the Assessing Officer.

3. Facts of the case, in brief, are that the assessee is a partnership firm engaged in trading of Aluminium alloys and scrap. It filed its return of income on 27th September, 2014 declaring the total income at Rs.16,02,450/-. The Assessing Officer, in the order passed u/s 143(3) on 29th December, 2016, completed the assessment determining the

total income of the assessee at Rs.25,68,450/- wherein he made an addition of Rs.9,66,000/- u/s 68 of the IT Act. Since there was non-appearance before the CIT(A) and there was a delay in filing the appeal before him, the Id.CIT(A), following the decision of the Tribunal in the case of *Multiplan India Ltd., reported in 38 ITD 320* and the decision of the Hon'ble Supreme Court in the case of *CIT vs. B.N. Bhattacharjee, 118 ITR 461 (SC)*, dismissed the appeal filed by the assessee.

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

5. None appeared on behalf of the assessee despite service of notice. However, since the Id.CIT(A) passed an *ex parte* order, therefore, it was deemed necessary to decide the appeal on the basis of the material available on record and after hearing the Id. DR. Admittedly, the Id.CIT(A) has dismissed the appeal by following the decision of the Tribunal in the case of *Multiplan India Ltd. (supra)* and the decision of the Hon'ble Supreme Court in the case of *B.N. Bhattacharjee (supra)*. Considering the totality of the facts of the case and in the interest of justice, I 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 his case including the reason for delay in filing the appeal before him and decide the issue as per fact and law. The assessee is also hereby directed to appear before the CIT(A) and explain the reason for the delay in filing the appeal as well as the issue on merit, failing which the Id.CIT(A) is at liberty to pass

appropriate order as per law. I hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

The decision was pronounced in the open court on 07.08.2019.

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMFBER

Dated: 07th August, 2019

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Copy forwarded to :

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

Asstt. Registrar, ITAT, New Delhis