

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'D' : NEW DELHI)**

**BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
and
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.2519/Del./2016
(ASSESSMENT YEAR : 2011-12)**

M/s. A V J Developers P. Ltd., vs. DCIT, Circle 1 (1),
B – 260, Vivek Vihar Phas I, New Delhi.
Delhi – 110 095.

(PAN : AAHCA0322K)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : None

REVENUE BY : Smt. Naina Soin Kapil, Senior DR

Date of Hearing : 04.09.2019

Date of Order : 01.10.2019

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

Appellant, M/s. A V J Developers P. Ltd. (hereinafter referred to as the 'assessee') by filing the present appeal sought to set aside the impugned order dated 09.01.2016 passed by the Commissioner of Income-tax (Appeals)-I, New Delhi qua the assessment year 2011-12 on the grounds inter alia that :-

"1. The Ld. CIT(A) has erred both in law and on facts in passing the impugned order of appeal dismissing the appeal in limine without providing sufficient opportunity to the appellant to present his submission in support of the grounds of appeal raised before him.

2. The Ld CIT (A) has erred both on facts and in law in upholding the action of the AO making addition of Rs.1,50,00,000/- u/s 68 of the I T Act holding the share capital of the above amount as unexplained cash credit.

3. The Ld CIT (A) has erred both on facts and in law in upholding disallowance of Rs.193000/- holding the same as capital expenditure being the amount incurred for announcement of authorized share capital.”

2. Briefly stated the facts necessary for adjudication of the issue at hand are : The assessee is into the business of purchase and sale of commercial property and development of group housing residential society. Assessing Officer (AO) made addition of Rs.1,50,00,000/- under section 68 of the Income-tax Act, 1961 (for short ‘the Act’) on the ground that the share capital of the aforesaid amount is unexplained cash credit. AO also made disallowance of Rs.1,93,000/- treating the same as capital expenditure being the amount incurred for announcement of authorized share capital and assessed the total income at Rs.2,54,20,570/-.

3. Assessee carried the matter by way of an appeal before the Id. CIT (A) who has confirmed the addition by dismissing the appeal. Feeling aggrieved, the assessee has come up before the Tribunal by way of filing the present appeal.

4. Assessee has not preferred to put in appearance despite issuance of the notice and consequently, we proceeded to decide the present appeal with the assistance of the Id. Senior DR as well as on the basis of documents available on the file.

5. We have heard the ld. Senior Departmental Representative for the revenue to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

6. Bare perusal of the impugned order passed by the ld. CIT (A) goes to prove that the ld. CIT (A) though decided the appeal on merit but in the absence of the assessee who stated to have not appeared despite numerous opportunities. We are of the considered view that in the absence of the assessee, the ld. CIT (A) has merely ratified the order passed by the AO without deciding the validity and legality of the assessment order. To decide the controversy at hand once for all, we are of the considered view that the assessee is required to be provided with one more opportunity of being heard. So, the present case is remanded back to the ld. CIT (A) to decide afresh after providing an opportunity of being heard to the assessee. Consequently, the appeal filed by the assessee is hereby allowed for statistical purposes.

Order pronounced in open court on this 1st day of October, 2019.

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

**sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

**Dated the 1st day of October, 2019
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)- I, New Delhi.
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.