

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: A : NEW DELHI
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.3466/Del/2017
Assessment Year: 2012-13

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| Ajaramar Trading & Investment Pvt. Ltd., S-3, IInd Floor, W-19, Greater Kailash Part-2, New Delhi. PAN: AAACA0535D | Vs | ITO, Ward-2(1), New Delhi. |
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(Appellant)

(Respondent)

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|-----------------------|---|----------------------------|
| Assessee by | : | None |
| Revenue by | : | Shri Sanjay Kapoor, Sr. DR |
| Date of Hearing | : | 21.11.2019 |
| Date of Pronouncement | : | 22.11.2019 |

ORDER

PER R.K. PANDA, AM:

This appeal filed by the assessee is directed against the *ex parte* order dated 9th December, 2016 of the CIT(A)-22, New Delhi relating to assessment years 2012-13.

2. The assessee in its various grounds has challenged the order of the CIT(A) in confirming the addition of Rs.2,94,20,513/- made by the Assessing Officer on account of sundry creditor balance and the differences written back and an amount of Rs.1,50,000/- on account of unsecured loan added u/s 68 of the IT Act.

3. None appeared on behalf of the assessee despite issue of notice. However, considering the fact that the CIT(A) has passed an *ex parte* order due to absence of

the assessee, the appeal is being decided on the basis of the material available on record and after hearing the ld. DR.

4. Facts of the case, in brief, are that the assessee is a private limited company engaged in trading agri commodities. It filed its return of income on 22nd March, 2013 declaring an income of Rs.10,57,610/-. The Assessing Officer completed the assessment u/s 143(3) on 31.03.2015 determining the total income at Rs.3,06,28,123/- wherein he made addition of Rs.2,94,20,513/- on account of sundry creditor balances and differences written back. Similarly, he also made an addition of Rs.1,50,000/- being unexplained loan taken by the assessee during the year by invoking the provisions of section 68. Since, despite service of notice, nobody appeared before the CIT(A), the ld.CIT(A) dismissed the appeal on the ground that the assessee does not wish to pursue the appeal.

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

6. We have heard the ld. DR and perused the material available on record. It is an admitted fact that despite repeated opportunities granted by the CIT(A), the assessee never bothered to appear before the CIT(A) for which he was constrained to pass an *ex parte* order. Further, the ld.CIT(A) has also observed that the appeal was filed late by approximately two months and along with the appeal, the assessee had enclosed confirmations from the two creditors whose notices u/s 133(6) were returned unserved. The explanations for the difference in the balance in the case of

India Glycols Limited were also enclosed. A request for admission of additional evidence was also made. However, since the assessee had not made out the case for admission of additional evidence under Rule 46A and, since, according to him, the assessee was communicated the result of enquiries under section 133(6) by the Assessing Officer, he dismissed the appeal due to non-prosecution of the appeal, but, did not decide the appeal on merit. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the CIT(A) with a direction to give 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) is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purpos

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

The decision was pronounced in the open court on 22.11.2019.

Sd/-

(H.S. SIDHU)
JUDICIAL MEMBER

Dated: 22nd November, 2019

dk

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Copy forwarded to :

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

Asstt. Registrar, ITAT, New Delhi