

IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'G' : NEW DELHI)
BEFORE SHRI R.K.PANDA, ACCOUNTANT MEMBER
AND
SHRI KULDIP SINGH, JUDICIAL MEMBER
ITA No.1702/Del./2017, A.Y. 2012-13

Three C Properties Pvt. Ltd. D-107, Panchsheel Enc. New Delhi PAN : AADCT5315R (APPELLANT)	Vs.	DCIT, Circle-25(1) New Delhi (RESPONDENT)
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ASSESSEE BY : Sh. Vishal Chandra Gupta, CA
REVENUE BY : Shri S.S.Rana, CIT(DR)

Date of Hearing : 03.12.2019
Date of Order : 17.12.2019

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

The appellant Three C Properties Pvt. Ltd., New Delhi (hereinafter referred to as 'the assessee') by filing the aforesaid appeal sought to set aside the impugned order dated 20/01/2017 passed by Ld. Commissioner of Income Tax(Appeals)-9, New

Delhi qua the Assessment Year 2012-13 on the grounds inter alia that :

1. *“That on the facts and in the circumstances of the appellant’s case, the Ld. CIT(A) erred in disposing of appeal on non-merit by dismissing it for non-appearance/ non-compliance whereas appellant have been duly explained and argued in respect of all grounds raised before the Ld. CIT(A) in written submission.*
2. *That on the facts and in the circumstances of the appellant’s case, the Ld. CIT(A), erred in law in not disposing of appeal as per the provisions of section 250(6) of the Income tax Act and dismissed the appeal merely due to non-appearance/ non-compliance of the appellant, which is unjustified, unlawful and unsustainable act in law and gross violation of principle of natural justice.*

Without prejudice to the Grounds of Appeal No. 1 to 2

3. *That on the facts and in the circumstances of the appellant’s case, the Ld. CIT(A) erred both in facts and in law in confirming addition of Rs. 3,45,76,123/- on account of disallowance of expenditure debited in the Profit & Loss account without appreciating the submission along with supporting evidences furnished by the appellant in support of said expenses claimed. That the appellant craves leave to add, amend or alter any of the grounds of appeal.”*

2. Briefly stated the facts necessary for adjudication of the controversy at hand are: the assessee is engaged in the business of Real Estate Development, Assessee filed return of income declaring

total loss of Rs. 3,45,76,123/- during the year under assessment. AO noticed that the assessee has claimed other expenses to the tune of Rs. 3,46,01,452/- and major part of the claim is on account of advertisement expenses of Rs. 3.39 crore and consultancy fees of Rs. 5.41 crore. Declining the contention raised by the assessee that the expenses have been incurred for the purpose of business AO proceeded to disallow the claim of expenses and loss of current year to the tune of Rs. 3,45,76,123/-.

3. Assessee carried the matter before Ld. CIT(A) who has confirmed the assessment framed by AO by dismissing the appeal. Feeling aggrieved the assessee has come up before the Tribunal by way of filing the present appeal.

4. We have heard the Id. DR, 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.

5. At the very outset it is brought to our notice by the Ld. AR for the assessee that the Ld. CIT(A) has passed the impugned order at the back of assessee by not providing adequate opportunity of being heard and requested for providing one opportunity to the assessee to put forth its case.

6. Perusal of the impugned order passed by Ld. CIT(A) particularly para 2 goes to prove that numerous opportunities were given to the assessee to prove its case but ultimately due to non-prosecution of appeal by the assessee the case was decided ex parte.

7. The Ld. AR for the assessee further contended that the assessee has engaged a tax practitioner to argue the appeal but for the reason best known to him, he did not appear and as such assessee was not at fault. No doubt, the case was adjourned at the request of the Authorised Representative of the assessee thrice but ultimately none appeared on its behalf. In the interest of justice, we are of the considered view that when the entire case is based upon the factual evidence which has not come on record due to non-appearance of the assessee, the issue is required to be decided once for all by providing adequate opportunity of being heard to the assessee. Consequently, we remit the case back to the Ld. CIT(A)

to decide afresh after providing opportunity of being heard to the assessee.

8. Consequently, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in open court on this 17th December, 2019.

Sd/-
(R.K.PANDA)
ACCOUNTANT MEMBER
Dated :17/12/ 2019
BR

Sd/-
(KULDIP SINGH)
JUDICIALMEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)-19, New Delhi.
5. CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI

Date of dictation	4/12/2019
Date on which the typed draft is placed before the dictating Member	06/12/2019
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	

The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	