

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD
BENCH "A-SMC", HYDERABAD

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

	ITA No.2254/Hyd/2018		
	Assessment Year: 2011-12		
Vasantha Infrastructure Private Limited, Plot No.45, Chikoti Gardens, Begumpet, Hyderabad, Telangana – 500 016. PAN: AACCV 7257 K	Vs.	Income Tax Officer, Ward-17(3), Hyderabad.	
(Appellant)		(Respondent)	
	Assessee by:	Sri Mohd. Afzal	
	Revenue by:	Smt. Komali Krishna, DR	
	Date of hearing:	21/10/2019	
	Date of pronouncement:	13/01/2020	

ORDER

This appeal is filed by the assessee against the order of the Ld CIT (A)-5, Hyderabad in appeal No.0264/2017-18/CIT (A)-5, dated 28/09/2018 passed U/s. 143(3) r.w.s 147 & U/s. 250(6) of the Act for the AY 2011-12.

2. The assessee has raised the following grounds in its appeal:-

“1. *The order of the Ld CIT (A) is against the law, weight of evidence and probabilities of case.*

2. *The Ld CIT (A) ought to have deleted the addition as the same is made by the AO rejecting the method of valuation of shares by the independent Chartered Accountants.*
3. *The Ld Commissioner ought to have appreciated that the value determined by the independent valuer is on the basis of discounted cash flow method which is a recognized method of valuation as per Rule 11UA, for computing the fair market value of the share.*
4. *The Ld Commissioner ought to have appreciated that the Rule-11UA(c), provides various methods of valuation of unquoted shares, the assessee is having an option to opt any one of the methods, therefore, the assessee adopted discounted free cash flow method.*
5. *The appellant craves leave to add to, amend or modify the above grounds of appeal either before or at the time of hearing of the appeal, if it is considered necessary.”*

3. At the outset, the Ld. AR submitted before us that the Ld. CIT (A) has passed ex-parte order without providing an opportunity to the assessee of being heard. It was therefore pleaded that the matter may be remitted back to the file of the Ld CIT (A) in order to provide one more opportunity to the assessee to pursue the appeal. Ld. DR, on the other hand, vehemently opposed to the submissions of the Ld. AR and argued that sufficient opportunities had been provided to the assessee however, on the given dates of hearing, neither the assessee nor his Representative appeared before the Ld. CIT (A) and adjournments were sought without proper reasons. It was further submitted that on the final date of hearing, though the Ld. AR of the assessee appeared before the Ld. CIT (A), he had not provided any explanation or evidence in support of the

assessee's case. Therefore, the Ld. CIT (A) had no other option but to pass ex-parte order based on the materials available on record. Hence, it was pleaded that the order passed by the Ld. CIT(A) does not call for any interference and appeal of the assessee may be dismissed.

4. I have heard the rival submissions and carefully perused the materials on record. On examining the facts of the case, I find merit in the submissions of the Ld. DR. The Ld. CIT (A) had posted the case on several occasions. However, none appeared on behalf of the assessee before the CIT(A) on the abovementioned dates of hearing. Therefore, the Ld. CIT (A) was left with no other option except to adjudicate the appeal ex-parte. In this situation, I do not find much strength in the arguments advanced by the ld. AR. However, considering the prayer of the Ld. AR, and in the interest of justice, I hereby remit the matter back to the file of Ld. CIT (A) in order to consider the appeal afresh by providing one more opportunity to the assessee of being heard. At the same breath, I also hereby caution the assessee to promptly co-operate before the Ld. CIT (A) in the proceedings failing which the Ld. CIT (A) shall be at liberty to pass appropriate order in accordance with law and merits based on the materials on the record. It is ordered accordingly.

5. In the result, appeal filed by the assessee is allowed for statistical purposes as indicated hereinabove.

Pronounced in the open Court on 13th January, 2020.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated:13th January, 2020

OKK

Copy to:-

- 1) Vasanth Infrastructure Private Limited C/o. Mohd. Afzal, Advocate, 402, Sherson's Residency, 11-5-465, Criminal Court Road, Red Hills, Hyderabad – 04.
- 2) Income Tax Officer, Ward-17(3), Signature Towers, 9th Floor, Kondapur, Hyderabad.
- 3) The CIT(A)-5, Hyderabad.
- 4) The Pr. CIT-5, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File