

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : G : NEW DELHI
(Through Virtual Court Hearing)

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No.4418/Del/2019
Assessment Year: 2014-15

AASL India Finvest Pvt. Ltd., Vs ITO,
KP-23, 3rd Floor, Ward 1(1),
Pitampura, New Delhi.
New Delhi.

PAN : AAECA2150L

(Appellant)

(Respondent)

Assessee by	:	Shri Nipun Mittal, CA
Revenue by	:	Shri Vipul Kashyap, Sr.DR
Date of Hearing	:	18.11.2020
Date of Pronouncement	:	18.11.2020

ORDER

PER R.K. PANDA, AM:

This appeal filed by the assessee is directed against the order dated 19th March, 2019 of the CIT(A)-32, New Delhi, relating to assessment year 2014-15.

2. The assessee in its various grounds of appeal has challenged the *ex parte* order of the CIT(A) in sustaining the disallowance/addition made by the AO.
3. Facts of the case, in brief, are that the assessee is a company engaged in the business of sale and purchase of shares on delivery basis. It filed its return of

income on 30th September, 2014 declaring total income at Rs.19,06,480/-. The AO completed the assessment u/s 143(3) the Act on 26th December, 2016 determining the total income of the assessee at Rs.68,60,370/- wherein he disallowed business loss claimed in penny stock at Rs.44,44,441/- and added wrong claim on long-term capital gain of Rs.5,09,445/-. Since the assessee did not appear before the CIT(A) despite service of notice, the Id.CIT(A), following the decision of the Honøble Supreme Court in the case of CIT vs. B.N. Bhattacharjee, 118 ITR 461 (SC) and the decision of Delhi Bench of the Tribunal in the case of CIT vs. Multiplan India Pvt. Ltd., 38 ITD 320 (Del) and various other decisions, dismissed the appeal filed by the assessee for want of prosecution.

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

5. We have heard the rival arguments made by both the sides and perused the materials available on record. We find, despite number of opportunities granted by the Id.CIT(A), the assessee did not appear before the CIT(A) to substantiate its case for which the Id.CIT(A) dismissed the appeal for want of prosecution. However, he has not decided the appeal on merit which he is required to do instead of dismissing the appeal for want of prosecution. 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 grant one final opportunity to the assessee to substantiate its case and decide the issue as per fact and law. The

assessee is also hereby directed to appear before the Id. CIT(A) and substantiate its case, failing which the Id.CIT(A) is at liberty to pass appropriate order as per law.

We hold and direct accordingly.

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

Decision was pronounced on conclusion of Virtual Hearing on 17th November, 2020 itself.

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 18th November, 2020.

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Copy forwarded to :

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

Asstt. Registrar, ITAT, New Delhi