

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'G' BENCH,  
NEW DELHI  
[THROUGH VIDEO CONFERENCE]**

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

ITA No. 3304/DEL/2019  
[Assessment Year : 2011-12 ]

M/S FOX MANDAL & CO.,  
27, 1<sup>ST</sup> FLOOR, BABAR LANE,  
BENGALI MARKET,  
NEW DELHI – 110 001  
(PAN: AAFF0687J)  
[Appellant]

VS. ACIT, CIRCLE 61(1),  
NEW DELHI

[Respondent]

Assessee by : Sh. Deepak Malik, Adv.  
Revenue by : Sh. Umesh Takyar, Sr. DR.

Date of hearing : 19.11.2020  
Date of pronouncement : 25.11.2020

**ORDER**

**PER R.K. PANDA, AM:**

This appeal filed by the assessee is directed against the exparte order dated 13.02.2019 of the Ld. CIT(A)-20, New Delhi relating to assessment year 2011-12. The assessee in the grounds of appeal has challenged the order of the Ld. CIT(A) in sustaining the penalty of Rs. 22,71,540/- levied by the AO u/s. 271(1)(c) of the I.T. Act, 1961.

2. The facts of the case in brief are that the assessee is a Law Firm and derived income from business or profession. It filed its return of income on 30.9.2011 declaring total income of Rs. 1,43,28,720/- which was revised on 31.3.2012 at an income of Rs. 1,85,81,220/-. The AO completed the assessment u/s. 143(3) of the Act on 22.3.2014 determining the total income of Rs. 2,86,19,320/-, wherein apart from other additions, he made the following additions/disallowances:-

| <b>Particular</b>           | <b>Amount</b>     |
|-----------------------------|-------------------|
| Bank charges                | 113399.37         |
| Interest on (C/Card)        | 931587.70         |
| Interest on Loan (Business) | 1382417.82        |
| Interest on Loan (Car)      | 1111736.40        |
| Interest on Loan (Property) | 2583087.00        |
| Interest on O/D (HSBC)      | 637641.05         |
| Interest on Service Tax     | 1625.00           |
| Processing charges for Loan | 389759.00         |
| <b>Grand Total</b>          | <b>7351253.34</b> |

3. Subsequently, the AO initiated penalty proceedings u/s. 271(1)(c) of the Act and levied penalty of Rs. 22,71,537/-. Since the assessee did not appear before the Ld. CIT(A) despite the issuance of statutory notices, Ld. CIT(A) vide exparte her order dated 13.02.2019, sustained the penalty levied by the AO u/s.

271(1)(c) of the Act. Aggrieved with such order of the Ld. CIT(A) the assessee is in appeal before the Tribunal.

4. Ld. Counsel for the assessee submitted that sufficient opportunity was not granted by the Ld. CIT(A) for hearing of the case and therefore in the interest of justice, the assessee should be given one final opportunity to substantiate its case.

5. Ld. DR on the other hand opposed the arguments advanced by the assessee's counsel and submitted that despite number of opportunities granted by the Ld. CIT(A), the assessee did not appear before her for which Ld. CIT(A) sustained the penalty so levied by the AO.

6. We have heard the rival arguments made by both sides and perused the record. It is an admitted fact that despite number of opportunities granted by the Ld. CIT(A), there was no compliance from the side of the assessee for which the Ld. CIT(A) was constrained to decide the appeal *ex parte* and thereafter sustained the penalty levied by the AO u/s. 271(1)(c) of the Act. However, considering the totality of the facts and circumstances of the case and in the interest of justice, we deem it proper to restore the issue to the file of the Ld. CIT(A) with the directions 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 Ld. CIT(A) and substantiate its case, 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 purposes.

7. In the result, the Assessee's Appeal is allowed for statistical purposes.

Order pronounced in the Open Court on 25.11.2020.

Sd/-

**[SUCHITRA KAMBLE]**  
**JUDICIAL MEMBER**

Sd/-

**[R.K. PANDA]**  
**ACCOUNTANT MEMBER**

**25.11.2020**

SRB

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi