

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'G' NEW DELHI**

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

ITA No. 4528/DEL/2019 (A.Y 2010-11)

(THROUGH VIDEO CONFERENCING)

CRS Developers Pvt. Ltd. Village – Pavi, Sadakpur Loni Tehsil, Uttar Pradesh – 201 102 AACCC9898D (APPELLANT)	Vs	ITO Ward 6(4) Room No. 376A, C. R. Building, New Delhi - 2 (RESPONDENT)
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Appellant by	None
Respondent by	Sh. Ajay Kumar, Sr. DR

Date of Hearing	19.11.2020
Date of Pronouncement	25.11.2020

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against the order dated 30/03/2019 passed by CIT(A)-2, New Delhi for Assessment Year 2010-11.

2. The grounds of appeal are as under:-

“Ground No. 1

On the facts and in the circumstances of the case and in law, Ld. CIT(Appeal) has erred in deciding the appeal Ex-parte without deciding the appeal on merits as laid down in CIT v. S. Chennaiappa Mudaliar (1969) SC (591) and Balaji Steel Re-rolling Mills v. Commissioner Excise & Customs (2014) 52 taxmann.com 107 (SC) case.

Ground No. 2

On the facts and in the circumstances of the case and in law, Ld. CIT(Appeal) has erred in deciding the ground raised for justification of assessment u/s 144/147 of the Income Tax Act, 1961.

Ground No. 3

On the facts and in the circumstances of the case and in law, Ld. CIT(Appeal) has erred in passing order on account of non-compliance while assessee was not provided a proper opportunity of being heard. Hon'ble CIT(Appeal) has also not followed the Rules of natural justice.

Ground No. 4

On the facts and in the circumstances of the case and in law, Ld. CIT(Appeal) has erred in passing the order without considering the application made by the assessee for adjournment on dated 04.04.2019 due to belated receiving the notice dated 20.03.2019.

Ground No. 5

On the facts and in the circumstances of the case and in law, Ld. CIT(Appeal) has erred in upholding the addition of Rs. 85,58,000/- made by Assessing Officer on account of –

- a. Additions of Rs. 21,50,000/- due to merely cash deposit in bank*
- b. Additions of Rs. 47,00,000/- received part payment of purchase consideration of the property in the name of Mr. Dhir Singh and not in the name of company.*
- c. Additions of Rs. 17,08,000/- for the deemed income which is assessed by AO by his own motion.*

Ground No. 6

On the facts and in the circumstances of the case and in law, Ld. CIT(Appeal) has erred in confirming the assessment order of Ld. Assessing Officer passed under section 144/147 of the Income Tax Act 1961 without giving proper opportunity to assessee by AO.

Ground No. 7

That the assessee craves leave to add, amend or alter any of grounds of the appeal.”

3. The assessee is engaged in Real Estate business. The Assessing Officer passed assessment order dated 22.12.2017 under section 144/147 of the Income Tax Act, 1961 thereby assessing the income of the assessee at 85,58,000/-.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. None appeared at the time of hearing hence we are proceeding on the basis of the records available before us.

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. We have heard Ld. DR and perused the material available on record. It is pertinent to note that the CIT(A) has not given any categorical finding on merit of the case and dismissed the appeal on the ground of non-prosecution of appeal. It is also observed that the CIT(A) did not give sufficient opportunity of hearing to the assessee. Therefore, the CIT(A) was not right in dismissing the appeal of the assessee without giving proper opportunity of hearing. Hence, we are remanding back the entire issue to the file of the CIT(A) to be decided on merit. Needless to say, the assessee be given opportunity of hearing by

following principles of natural justice. The appeal of the assessee is partly allowed for statistical purpose.

8. In result, the appeal filed by the assessee is partly allowed for statistical purpose.

Order pronounced in the Open Court on this 25th Day of November, 2020.

Sd/-

**(R. K. PANDA)
ACCOUNTANT MEMBER**

Sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated: 25/11/2020

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

