

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "SMC-2" BENCH: NEW DELHI**

(THROUGH VIDEO CONFERENCING)

BEFORE SHRI R.K.PANDA, ACCOUNTANT MEMBER

**ITA No.2959/Del/2016
Assessment Year : 2010-11**

Kashi Vishwanath Steels Pvt.Ltd., D-6, Phase-I, Vivek Vihar, New Delhi-110095. PAN-AAACK2340N	Vs	ACIT, Central Circle, Noida.
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Ms. Shivani Bansal, Sr.DR	
Date of Hearing	06.01.2021	
Date of Pronouncement	18.01.2021	

ORDER

PER R.K.PANDA, AM :

This appeal filed by the assessee is directed against the ex-parte order dated 15.03.2016 of CIT(A)-IV, New Delhi relating to assessment year 2010-11.

2. None appeared on behalf of the assessee despite service of notice. Therefore, this appeal is being decided on the basis of material available on record and after hearing the Ld.Sr.DR.

3. Facts of the case, in brief, are that the assessee is a Private Limited company. Return declaring income of Rs.3,54,130/- was filed by the assessee on 26.11.2010. The Assessing Officer completed the assessment

u/s 153A/143(3) of the Income Tax Act, 1961 (in short "Act") on 27.12.2011 determining the total income of the assessee at Rs.47,62,650/- wherein he made addition of Rs.12,19,238/- on account of disallowance u/s 14A r.w. Rule 8D of the Income Tax Rules. Since there was no appearance from the side of the assessee despite service of notice, the Ld. CIT(A) following the decision of Hon'ble Delhi High Court in the case of *CIT vs Gold Leaf Capital Corporation Ltd.* in ITA No.798 of 2009 dated 02.09.2011 and various other decisions, dismissed the appeal filed by the assessee for non-prosecution.

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

5. I have heard the Ld. Sr. DR and perused the orders of the Assessing Officer and the CIT(A). It is an admitted fact that despite opportunities granted by the CIT(A), there was no appearance from the side of the assessee for which the CIT(A) was constrained to pass the ex-parte order, dismissing the appeal of the assessee for non-prosecution. However, he has not decided the appeal on merit which he is required to do. As per provisions of section 250(6) of the Act, the order of the CIT(A) disposing the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision. Since the Ld.CIT(A) has not decided the appeal on merit which he is required to do, therefore, considering the totality of the facts of the case and in the interest of justice, I deem it appropriate to restore the issue to the file of Ld. CIT(A) with the

direction to grant one last opportunity to the assessee to substantiate its case and decide the issue as per fact and law by passing a speaking order. The assessee is also hereby directed to appear before the CIT(A) and substantiate its case failing which the Ld. CIT(A) is at liberty to pass appropriate order as per law. I hold and direct accordingly.

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

Order pronounced in the open Court on 18th January, 2021.

Sd/-

(R.K.PANDA)
ACCOUNTANT MEMBER

Dated:- 18.01.2021

** Amit Kumar **

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI