

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : SMC-1 : NEW DELHI
(Through Virtual Hearing)

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.178/De1/2020
Assessment Year: 2011-12

V.K. Raj Resort Pvt. Ltd.,
Office No.387, 2nd Floor,
Anuvrat Tower,
New Delhi.

Vs ITO,
Ward-26(1),
New Delhi.

PAN : AADCV1090R

(Appellant)

(Respondent)

Assessee by	:	Shri Mohit Bansal, CA
Revenue by	:	Shri R.K. Gupta, Sr. DR
Date of Hearing	:	15.06.2021
Date of Pronouncement	:	15.06.2021

ORDER

PER R.K. PANDA, AM:

This appeal filed by the assessee is directed against the ex parte order dated 11.11.2019 of the CIT(A)-36, Delhi, relating to the assessment year 2011-12.

2. Although a number of grounds have been raised, these all relate to the ex parte order of the CIT(A) in confirming the order passed by the AO determining the total income at Rs.21,21,997/- as against the returned loss of Rs.46,058/-.

3. Facts of the case, in brief, are that the assessee is a private limited company. Information in this case was received from the DDIT (Inv.), Unit II (Kolkata), that

the assessee was a beneficiary to huge funds amounting to Rs.45 lakhs from various sources. The case of the assessee was accordingly reopened after recording reasons and notice u/s 148 of the Act was issued after taking prior approval of the competent authority. In response to the notice u/s 148, the assessee filed its return of income declaring loss of Rs.46,058/-. The assessee requested for copy of the reasons which were provided to the assessee. Subsequently, during the course of assessment proceedings, the AO asked the assessee to explain as to why the total amount received from M/s Balaji Construction Company amounting to Rs.1,22,63,000/- be not added to the income of the assessee. It was explained that the assessee had advanced a loan of Rs.1,22,63,000/- during the F.Y. 2009-10 which was received back in F.Y. 2010-11. It was also claimed that it has again issued this loan back to some other entities during the year. However, the AO observed from the bank statement that the assessee had huge credits amounting to Rs.21,68,05,597/- from various entities during the year. On perusal of movement of funds in assessee's account, he noted that peak volume of credit are immediately debited from the account keeping a nominal balance. After examining the details, the AO came to the conclusion that the amount of Rs.21,68,05,597/- is bogus and mere entries to route unaccounted money of the beneficiaries through banking channel giving them a colour of genuineness. The AO, therefore, estimated 1% of total receipt as reasonable rate of commission treating the assessee as an entry operator and accordingly made addition of Rs.21,68,055/- to the total income of the assessee. Since the assessee did not appear before the CIT(A) despite granting

of several opportunities, the Id.CIT(A), in the ex parte order passed by him, dismissed the appeal filed by the assessee.

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

5. I have heard the rival arguments made by both the sides and perused the record. It is an admitted fact that despite number of opportunities granted by the CIT(A), the assessee did not appear before him for which the Id.CIT(A) was constrained to pass the ex parte order. It is the submission of the Id. Counsel for the assessee that given an opportunity the assessee is in a position to explain his case before the Id.CIT(A). Considering the totality of the facts of the case and in the interest of justice, I deem it proper to restore the issue back 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 CIT(A) and explain its case without seeking any adjournment under any pretext failing which, the Id.CIT(A) is at liberty to pass appropriate order as per law. I hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

The order was pronounced in the open court on conclusion of the hearing itself, i.e., on 15th June, 2021.

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 15th June, 2021.

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Copy forwarded to :

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

Asstt. Registrar, ITAT, New Delhi