

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC-2" : DELHI
[THROUGH VIDEO CONFERENCING]

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA.No.6005/Del./2019
Assessment Year 2014-2015

M/s. Black Stone Infracon Pvt. Ltd., 804, West Sky Towers, F-5, Opps Fun Cinemas, Netaji Subhas Place, Pitampura, New Delhi. PIN – 110 034. PAN AADCB5272D	vs.	The Income Tax Officer, Ward-5(1), Laxmi Nagar, New Delhi – 110 092.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Shri R.K. Gupta, Sr. D.R.

Date of Hearing :	16.06.2021
Date of Pronouncement :	16.06.2021

ORDER

This appeal filed by the Assessee is directed against the ex-parte Order dated 26.02.2019 of the Ld. CIT(A)-2, New Delhi, relevant to the A.Y. 2014-2015.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the ex-parte order of the Ld. CIT(A) in confirming the various additions

made by the A.O. and determining the total income at Rs.26,97,772/- as against the returned loss of Rs.79,129/-.

3. 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. D.R.

4. The facts of the case, in brief, are that the assessee is a Company and filed its return of income on 28.09.2015 declaring loss of Rs.(-)79,129/-. The A.O. completed the assessment under section 144 of the I.T. Act on 28.12.2006 determining the total income of the assessee at Rs.26,97,772/-. Since the assessee did not appear before the CIT(A) despite 04 opportunities granted, the Ld. CIT(A) relying on the following decisions dismissed the appeal of assessee for want of prosecution.

1. Judgment of Hon'ble Punjab & Haryana High Court in the case of Shahbad Cooperative Sugar Mills Ltd., 38 taxmann.com 204 (P&H).
2. Judgment of Hon'ble Supreme Court in the case of CIT vs., B.N. Bhattacharya [1977] 118 ITR 461 (SC).
3. Order of ITAT Delhi in the case of Vipul Logistic & Warehousing Pvt. Ltd., vs., ITO in ITA.No.5454/Del./2010

5. Aggrieved with the said order of the Ld. CIT(A), the assessee is in appeal before the Tribunal.

6. I have heard the Ld. D.R. and perused the material available on record. It is an admitted fact that despite opportunities granted by the A.O. as well as the Ld. CIT(A), the assessee did not appear before either of the authorities for which ex-parte orders have been passed by the A.O. as well as the Ld. CIT(A). However, the Ld. CIT(A) in the instant case has not decided the appeal on merits which she was supposed to as per the provisions of Section 250(6) of the I.T. Act, 1961 which reads as under :

“The order of the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision.”

6.1. Since in the instant case the Ld. CIT(A) has simply dismissed the appeal for want of prosecution and has not decided the appeal on merits, therefore, considering the

totality of the facts and circumstances of the case and in the interest of justice, I deem it proper to restore the issue to the file of the Ld. CIT(A) with a direction to grant one final opportunity to the assessee to substantiate its claim and decide the issue as per fact and Law and pass a speaking order on merit. The assessee is also hereby directed to appear before the Ld. CIT(A) and substantiate its case without seeking any adjournment under any pretext, failing which, the Ld. CIT(A) is at liberty to pass appropriate orders as per Law. The grounds raised by the assessee are accordingly allowed for statistical purposes.

7. In the result, appeal of the Assessee allowed for statistical purposes.

Order pronounced in the open Court at the time of hearing itself i.e., on 16.06.2021.

Sd/-
(R.K. PANDA)
ACCOUNTANT MEMBER

Delhi, Dated 16th June, 2021

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC-2' Bench, Delhi
6.	Guard File.

// By Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.