

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

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.6464/Del/2018
Assessment Year: 2014-15

Today Realty P. Ltd.,
C-28, GF, Panchsheel Enclave,
New Delhi.

Vs. ITO,
Ward-25(3),
New Delhi.

PAN: AACCT8999G

(Appellant)

(Respondent)

Assessee by	:	Shri V.K. Tulsian, CA
Revenue by	:	Shri R.K. Gupta, Sr.DR
Date of Hearing	:	03.08.2021
Date of Pronouncement	:	03.08.2021

ORDER

This appeal by the assessee is directed against the ex parte order dated 30th June, 2018 of the CIT(A)-9, New Delhi, relating to Assessment Year 2014-15.

2. Although a number of grounds have been raised by the assessee in the grounds of appeal, these all relate to the ex parte order of the CIT(A) in sustaining the addition of Rs.33,50,000/- made by the AO u/s 68 of the IT Act, 1961.

3. This is the second round of litigation before the Tribunal. Earlier, the Tribunal had dismissed the appeal for want of prosecution. Subsequently, the Tribunal, vide

MA No.761/Del/2019, order dated 26th February, 2021, recalled its earlier order. Hence, this is a recalled matter.

4. Facts of the case, in brief, are that the assessee is a private limited company and filed its return of income electronically on 30.11.2014 declaring the total income at Rs.600/-. The AO completed the assessment u/s 143(3) determining the total income of the assessee at Rs.33,50,600/- wherein he made addition of Rs.33,50,000/- u/s 68 of the IT Act since the assessee could not substantiate with evidence to his satisfaction regarding the deposits in the bank account. Since the assessee did not appear before the CIT(A) despite number of opportunities granted, the Id.CIT(A), in the ex parte order passed by him, sustained the addition made by the AO.

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

6. The Id. Counsel for the assessee, referring to the order of the CIT(A), submitted that due to non-receipt of notice from the office of the CIT(A) on the last occasion, the assessee could not appear before the CIT(A). He submitted that the Id.CIT(A) has not passed a speaking order while dismissing the appeal filed by the assessee. He submitted that given an opportunity, the assessee is in a position to substantiate his case with evidence to the satisfaction of the lower authorities. He accordingly submitted that in the interest of justice, this matter should be restored to the file of the CIT(A).

7. The Id. DR, on the other hand, while objecting to the arguments advanced by the Id. Counsel, submitted that the assessee was non-cooperative and had not availed the opportunities granted by the CIT(A). Therefore, the order of the CIT(A) should be upheld.

8. I have heard the rival arguments made by both the sides and perused record. It is an admitted fact that the AO in the instant case, has made an addition of Rs.33,50,000/- u/s 68 of the IT Act since the assessee could not explain the source of cash deposit in the two bank accounts. I find, due to non-appearance of the assessee before the CIT(A) despite number of opportunities granted, the Id.CIT(A), in the ex parte order passed by him, sustained the addition made by the AO. It is the submission of the Id. Counsel for the assessee that given an opportunity, the assessee is in a position to substantiate its case to the satisfaction of the lower authorities. Considering the totality of the facts of the case and in the interest of justice, I deem it proper to restore the issue 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 substantiate 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.

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

Pronounced in the open court at the time of hearing itself, i.e., on 03.08.2021.

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 3rd August, 2021.

dk

Copy forwarded to

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

Asstt. Registrar, ITAT, New Delhi