

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

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.126/Del/2020
Assessment Year: 2010-11

VPR Consultants Pvt. Ltd.,
CB-385B, Ring Road,
Naraina,
New Delhi.

Vs. ITO,
Ward-26(4),
New Delhi.

PAN: AACCV9211D

(Appellant)

(Respondent)

Assessee by	:	None
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 16th September, 2019 of the CIT(A)-28, New Delhi, relating to Assessment Year 2010-11.

2. None appeared on behalf of the assessee. The notice issued to the assessee through RPAD was returned unserved with the remark -leftø and the assessee has not intimated the change of address, if any. Therefore, this appeal is being disposed of on the basis of material available on record and after hearing the Id. DR.

3. Although a number of grounds have been raised by the assessee, these all relate to the ex parte order of the CIT(A) in confirming the various additions made by the AO and the validity of reassessment proceedings.

4. Facts of the case, in brief, are that the assessee is a company and has filed its return of income on 24th March, 2011 declaring total income at Rs.90,952/-. Subsequently, information was received from the Investigation Wing that during the search operation carried out in the case of Surendra Kumar Jain group of cases, the name of the assessee company was found in the list as one of the beneficiaries of the accommodation entries. Therefore, the case of the assessee was reopened after recording reasons u/s 147 of the IT Act. The notice u/s 148 was issued to the assessee on 30th March, 2007 through speed post. However, the assessee did not comply with the said notice by filing the return of income within the scheduled time. Subsequently, the assessee appeared before the AO and filed certain details. Fresh notice u/s 142(1) was issued and the assessee appeared from time to time before the AO. However, the AO was not satisfied with the arguments advanced by the assessee and made an addition of Rs.20 lakhs u/s 68 of the Act being accommodation entry received by the assessee in the form of share capital. Similarly, the AO made addition of Rs.35,000/- being payment of commission for taking accommodation entry u/s 69C of the IT Act. Thus, the AO determined the total income of the assessee at Rs.21,25,950/- as against the returned income of Rs.90,952/-.

5. Since the assessee did not appear before the CIT(A) despite number of opportunities granted, the ld.CIT(A), in his ex parte order, dismissed the appeal filed by the assessee.

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

7. I have heard the ld. DR and perused record. It is an admitted fact that the AO, in the instant case, made addition of Rs.20 lakhs u/s 68 of the IT Act being the accommodation entry in the form of share capital. Similarly, the AO has made addition of Rs.35,000/- u/s 69 of the Act being the commission paid for obtaining such accommodation entry. I find, the ld. CIT(A) dismissed the appeal filed by the assessee in his ex parte order passed by him since there was no submission before him to substantiate with evidence to fulfill the ingredients of section 68 of the Act. 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 his 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 ld.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.

8. 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.

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Copy forwarded to

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

Asstt. Registrar, ITAT, New Delhi