

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

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.9741/Del/2019
Assessment Year: 2014-15

Tirumala Vincom Private Limited, C/o Shreeji Pujan Bhandar, 24/27, Ground Floor, Rameshwar Nagar, New Delhi.	Vs.	ITO, Ward-25(3), New Delhi.
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PAN: AACCT3912H

(Appellant)

(Respondent)

Assessee by	:	None
Revenue by	:	Shri R.K. Gupta, Sr.DR
Date of Hearing	:	04.08.2021
Date of Pronouncement	:	04.08.2021

ORDER

This appeal by the assessee is directed against the ex parte order dated 29th October, 2019 of the CIT(A)-36, New Delhi, relating to Assessment Year 2011-12.

2. This appeal was fixed for a number of times. The notice issued through RPAD by the Registry was finally returned unserved by the Postal Authorities with the remark "house is locked". Therefore, this appeal is being decided on the basis of material available on record and after hearing the ld. DR.

3. Although a number of grounds of appeal have been raised by the assessee, these all relate to the ex parte order of the CIT(A) in confirming the addition of Rs.29,51,092/- made by the AO u/s 68 and 69C of the IT Act, 1961.

4. Facts of the case, in brief, are that the assessee is a private limited company and filed its return of income on 21st December, 2011 showing the total income at ₹0. In this case, information was received from the Investigation Wing, Delhi, that during the course of survey proceedings on 8th March, 2017 in the case of Puneet Kulthai, he could not explain the financial data of various entities including the assessee company pertaining to F.Y. 2007-08 onwards which was found in the hard disks and laptops impounded from his premises during the survey proceedings. Further, in its statement on oath u/s 131 of the Act, Shri Puneet Kulthai did not provide proper reasons for presence of such data on various entities and showed its reluctance. Thereafter, the AO reopened the case of the assessee u/s 147 of the Act with the prior approval of the competent authority after recording of reasons for doing so. Notice u/s 148 of the Act was issued to the assessee on 31.03.2018. Subsequently, notices u/s 143(2)/142(1) of the Act were also issued and served on the assessee. During the course of assessment proceedings, the AO asked the assessee company to submit complete details of all the receipts of Rs.14.02 lakhs received from M/s Dhanlaxmi Paper Mills Pvt Ltd, M/s. Kudrat Agencies Pvt Ltd, M/s. Henko Commodities Pvt Ltd and M/s. Anamika Agencies Pvt Ltd and complete details of payments of Rs. 12.00 lacs made to M/s. Murli M Chandak Sec Pvt. Ltd and M/s Onkar Merchants Pvt Ltd during the FY 2010-

11 along with documentary evidences to support its claim. However, the AO was not satisfied with the reply given by the assessee during the course of assessment proceedings. The AO, therefore, made addition of the same u/s 68 of the Act. Further, the AO also made addition of Rs.3,49,092/- being commission @ 4% for providing bogus share transaction to the tune of Rs.87,27,300/-. Thus, the AO determined the total income of the assessee at Rs.21,51,092/-. 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, dismissed the appeal of the assessee.

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

6. I have heard the Id. DR and perused the record. It is an admitted fact that the AO, in the instant case, made an addition of Rs.26,02,000/- by invoking the provisions of section 68 and also made an addition of rs.3,49,092/- u/s 69C of the IT Act being commission @ 4% for arranging bogus share transaction of Rs.87,27,300/-. I find, due to non-appearance 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. However, the CIT(A) has not decided the appeal on merit as per the provisions of section 250(6) 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 more 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 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.

7. 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 04.08.2021.

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 4th 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