

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'SMC': NEW DELHI**

(Through Video Conferencing)

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

**ITA No.7690/DEL/2019
[Assessment Year: 2010-11]**

| | |
|---|--|
| Das Aviation Services Private Limited, Shop No.16, D-978, Sector-7, Dwarka, New Delhi-110075 | Income Tax Officer, Ward-7(2), Room No.406, 4 th Floor, C.R. Building, New Delhi |
| PAN-AACCD9980B | |
| Assessee | Revenue |

| | |
|-------------|--------------------------|
| Assessee by | None |
| Revenue by | Sh. Ramesh Kumar, Sr. DR |

| | |
|------------------------------|-------------------|
| Date of Hearing | 23.08.2021 |
| Date of Pronouncement | 23.08.2021 |

ORDER

This appeal filed by the assessee is directed against the ex-parte order dated 06.08.2019 of the learned CIT(A)-03, New Delhi, relating to Assessment Year 2010-11.

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

2.1. Despite issue of notice by the registry, there was non-appearance from the side of the assessee. Therefore, this appeal is being decided on the basis of material available on record and after hearing the learned DR.

3. Facts of the case, in brief, are that the assessee is a private limited company and has not filed its return of income for the impugned assessment year. As per information available in ITD system, the AO observed that the assessee company has purchased bank draft/banker cheque in cash amounting to Rs.3,00,000/- relevant to AY 2010-11. After conducting an independent enquiry, the AO reopened the case of the assessee by recording reasons as per provisions of section 147 of the Act. Thereafter, the AO issued notice u/s 148 of the Act dated 25.03.2017 which was duly served on the assessee. However, neither there was any compliance to the said notice nor there was any appearance before the AO. There was also non-compliance to the statutory notices issued u/s 142(1) of the Act. Subsequently, the AR of the assessee appeared before the AO wherein, he was directed to explain the source of cash deposited in the bank account totalling to Rs.4,24,109/-. Since, there was no satisfactory explanation,

the AO made addition of the same by invoking the provisions of section 68 of the Act. Similarly, due to inability of the assessee to substantiate the claim of various expenses debited in the profit & loss account, the AO disallowed an amount of Rs.13,643/- being 20% of the expenses claimed. Thus, the AO determined the total income at Rs.4,37,743/-.

3.1. Since, there was non-appearance before the learned CIT(A) despite number of opportunities, the learned CIT(A) in his ex-parte order dismissed the appeal filed by the assessee.

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

5. I have heard the learned DR and perused the record. It is an admitted fact that due to non-appearance before the learned CIT(A) despite three statutory notices issued by his office, the learned CIT(A) dismissed the appeal filed by the assessee for want of prosecution. However, he has not decided the issue on merit which he is required to do. As per provisions of section 250(6) of the I.T. Act, 1961, the order of the learned CIT(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. However, in the instant case, the learned CIT(A) has not decided the appeal on merit. Considering the totality of facts of the case and in the interest of justice, I deem it proper to restore the issue to the file of the learned CIT(A) with a direction to grant one last opportunity to the assessee to substantiate its case and decide the issue as per fact and law by passing a speaking order on merit. The assessee is also hereby directed to appear before the learned CIT(A) without seeking any adjournment under any pretext failing which the learned 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 purpose.

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

Above decision was pronounced in the open court at the time of hearing itself i.e. on 23.08.2021.

Sd/-

[R.K.PANDA]
ACCOUNTANT MEMBER

Delhi; Dated: 23/08/2021.

Shekhar, Sr. P.S

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi