

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

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.5877/Del/2019
Assessment Year: 2011-12

Registan Exim Pvt. Ltd.,
835/836, Kucha Pati Ram,
Sita Ram Bazar,
Chandni Chowk,
New Delhi.

Vs. ITO,
Ward 21(2),
New Delhi.

PAN: AAECR5891F

(Appellant)

(Respondent)

Assessee by	:	None
Revenue by	:	Shri R.K. Gupta, Sr. DR
Date of Hearing	:	13.10.2021
Date of Pronouncement	:	13.10.2021

ORDER

This appeal filed by the assessee is directed against the ex parte order dated 15th May, 2019 of the CIT(A)-7, New Delhi, relating to Assessment Year 2011-12.

2. Despite service of notice, none appeared on behalf of the assessee. 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 have been raised by the assessee, however, these all relate to the ex parte order of the CIT(A) in dismissing the appeal filed by the assessee and thereby sustaining the various additions made by the AO.

4 Facts of the case, in brief, are that the assessee is a private limited company engaged in the business of trading of fabrics. It filed its return of income on 14th September, 2011 declaring total income of Rs.1,88,420/-. The return was processed u/s 143(1) of the IT Act, 1961. Subsequently, information was received from the Investigation Wing, Unit-4, New Delhi that the assessee company has voluminous transaction with entities having varied business lines and showing miniscule income of Rs.1,88,418/- as against the large turnover of Rs.28.72 crores. The AO, therefore, reopened the assessment after recording reasons as per the provisions of section 147 and notice u/s 148 was issued to the assessee on 27th March, 2017. The assessee filed the return in response to notice u/s 148 on 26th September, 2018 declaring the same income as declared in the original return. A copy of the reasons recorded was also supplied to the assessee. The assessee did not file any objection to the notice u/s 148 nor challenged the assumption of jurisdiction u/s 148.

4.1 During the course of assessment proceedings, the assessee filed various details as asked for by the AO from time to time. However, from the financial statements filed by the assessee, the AO noted that the assessee had shown huge liabilities in his balance sheet on account of unsecured loans and sundry creditors.

The AO asked the assessee to file confirmed ledger accounts along with copy of ITR and bank statements reflecting the transaction of all sundry creditors and entities from whom loans were raised. The assessee filed the requisite details. The AO, thereafter, issued notice u/s 133(6) to all the parties in the address provided by the assessee. However, he noted that the notice sent to Ashi International was returned back by the Postal Authorities with the remark "left W/A." The AO confronted the same to the assessee. In absence of any explanation from the assessee, the AO made addition of Rs.8,33,908/- to the total income of the assessee. The AO further made addition of Rs.23,190/- being ad hoc disallowance of 15% out of the expenses on account of conveyance and travelling (Rs.89,398/-), telephone expenses (Rs.46,228/-) and vehicle running expenses (Rs.18,970/-). The AO also disallowed the donation of Rs.7,100/-. Thus, the AO determined the total income of the assessee at Rs.10,52,618/-. Since the assessee did not appear before the CIT(A), the Id.CIT(A), in his ex parte order, dismissed the appeal filed by the assessee.

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

6. I have heard the Id. DR and perused the record. The order of the CIT(A) shows that he had issued two notices i.e., one on 19th April, 2019 fixing the hearing on 22nd April, 2019 on which date none appeared. Thereafter, the CIT(A) issued another notice dated 23rd April, 2019 fixing the date of hearing for 1st May,

2019 on which date, the ld. AR of the assessee appeared and filed adjournment application and the case was adjourned to 14th May, 2019. However, on 14th May, 2019, none appeared for which the ld.CIT(A) dismissed the appeal filed by the assessee on 15th May, 2019. It is the grievance of the assessee in the grounds of appeal that no proper opportunity was granted by ld. CIT(A). 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 appeal 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.

The decision was pronounced in the open court on 13.10.2021.

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 13th October, 2021

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Copy forwarded to :

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

Asstt. Registrar, ITAT, New Delhi