

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

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

ITA No.742/Del/2021
Assessment Year: 2015-16

M/s. Dhingra Projects Pvt. Ltd., 71, Chitra Gupta Road, Paharganj, New Delhi	Vs.	ACIT, Circle-7(2), New Delhi
PAN :AACCD8753g		
(Appellant)		(Respondent)

Appellant by	Sh. Amitosh Mohitra, CA
Respondent by	Sh. Umesh Takyar, Sr.DR

Date of hearing	23.02.2022
Date of pronouncement	23.02.2022

ORDER

PER SAKTIJIT DEY, JM:

This is an appeal by the assessee against order dated 18.02.2019 of learned Commissioner of Income Tax (Appeals), Delhi, for assessment year 2015-16.

2. At the outset, we must observe, there is a delay of 772 days in filing the present appeal. On Perusal of application seeking condonation of delay and accompanying affidavit, it is noticed

that due to ill health of its chief functionary, who ultimately passed away, the business was, more or less, suspended and there was no staff to receive the official notice. It has also been brought to our notice that after the demise of the chief functionary, the promoters were embroiled in a number of cases before the Police, RERA and various other fora which prevented them to take action for filing the present appeal. After considering the submission of the assessee, we are satisfied that the delay in filing the appeal is due to reasonable cause. Accordingly, we condone the delay and admit the appeal for adjudication.

3. We have heard the parties and perused the materials on record. The basic grievance of the assessee is against ex-parte disposal of the appeal by learned Commissioner (Appeals).

4. As could be seen from the facts on record, the assessee is a resident company. For the assessment year under dispute, the assessee filed its return of income on 30.09.2015 declaring loss of Rs.44,88,647/-. The assessment in case of the assessee was completed vide order dated 30.12.2017 determining total income of Rs.8,95,90,680/-. The major cause of variance between the income returned and the income determined was due to addition of an amount of Rs.9,26,17,197/- under section 68 of the

Income-tax Act, 1961 (for short 'the Act'). The assessment order so passed was challenged by the assessee before learned Commissioner (Appeals). However, by the impugned order, learned Commissioner (Appeals) disposed of the appeal ex-parte confirming the additions made by the Assessing Officer.

5. Challenging the ex-parte disposal of the appeal, learned counsel for the assessee submitted, without affording reasonable opportunity of being heard to the assessee, learned Commissioner (Appeals) has disposed of the appeal ex-parte and has confirmed the additions made without properly examining the issues on merits.

6. Learned Departmental Representative submitted, if the assessee is aggrieved with the ex-parte disposal of the appeal, another opportunity of being heard can be given to the assessee. However, he submitted, the assessee may be directed to cooperate in the proceeding before learned Commissioner (Appeals).

7. We have considered rival submissions and perused the materials on record. Undisputedly, there is huge variation between the income returned by the assessee and determined by the Assessing Officer. The major component of the addition is an amount of Rs. 9,26,17,197/- as unexplained cash credit. On

perusal of the impugned order of learned Commissioner (Appeals), it is very much clear, he has confirmed the additions made, including the addition made under Section 68 of the Act, without going deep into the issues. Of course, this may be due to non-representation by the assessee.

8. Be that as it may, considering the nature of additions and the fact that the assessee did not get an opportunity to represent its case before learned Commissioner (Appeals), we are inclined to restore the matter back to the file of learned Commissioner (Appeals) for de-novo adjudication after proving due and reasonable opportunity of being heard to the assessee. We also direct the assessee to appear before learned Commissioner (Appeals) and make proper representation and cooperate in finalization of the proceeding. Grounds are allowed for statistical purposes.

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

Order pronounced in the open court on 23rd February, 2022

Sd/-
(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 23rd February, 2022.
RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi