

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

**BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.7822/DEL/2018
[Assessment Year: 2010-11]**

M/s DAV Logistics Pvt. Ltd. 157, Bhai Parmanand Colony, Kingsway Camp, New Delhi-110009	Vs	Income Tax Officer, Ward-7(2), R. No.406, C.R. Building, New Delhi-110002
PAN-AADCD1855A		
Assessee		Revenue

Assessee by	None
Revenue by	Sh. Vivek Vardhan, Sr. DR

Date of Hearing	27.04.2022
Date of Pronouncement	27.04.2022

ORDER

PER R.K. PANDA, AM,

This appeal filed by the assessee is directed against the order dated 28.09.2018 of the learned CIT(A)-3, New Delhi, relating to AY 2010-11.

2. The assessee in the grounds of appeal has challenged the ex-parte order of the Ld. CIT(A) in dismissing the appeal for want of prosecution and thereby sustaining the various additions made by the AO.

3. None appeared on behalf of the assessee at the time of hearing. The notices sent through registry were also returned back unserved by the postal authorities. Therefore, we deem it proper to

decide the issue on the basis of material available on record and after hearing the ld. DR.

4. Facts of the case, in brief, are that the assessee is a company and had not filed its return of income for the impugned assessment year. An amount of Rs.19,87,087/- was credited to the assessee u/s 194C and 194 I of the Act during the F.Y. 2009-10 relevant to AY 2010-11 as per information available on ITD system. The AO therefore after recording reasons, reopened the assessment u/s 147 of the Act. Thereafter, notice u/s 148 was issued. The assessee did not file any return in response to notice u/s 148 of the Act. The notices were received back undelivered with the postal remark, 'no such firm', for which the notices were served through affixture. The AO, thereafter completed the assessment u/s 144 r.w.s. 147 of the Act determining the total income of the assessee at Rs.11,06,410/-.

5. In appeal, the ld. CIT(A) upheld the action of the AO.

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

7. We have heard the ld. DR and perused the record. It is an admitted fact that due to non filing of return either u/s 139(1) or in response to notice u/s 148 of the Act, the AO completed the assessment u/s 144/147 of the Act determining the total income of

the assessee at Rs.11,06,410/-, wherein, he made addition of Rs.2,82,963/-, 4,26,031/- and Rs.3,97,416/- respectively u/s 68 of the Act. We find due to non-appearance of the assessee before the Ld. CIT(A), the ld. CIT(A) decided the appeal ex-parte and sustained the additions made by the AO. After considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the ld. CIT(A) with a direction to grant one final 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 Ld. 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. We hold and direct accordingly. The grounds raised by the assessee are allowed for statistical purposes.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

The Order was pronounced in the open court at the time of hearing itself i.e. on 27.04.2022.

Sd/-
[ANUBHAV SHARMA]
JUDICIAL MEMBER

Delhi; Dated: 27.04.2022.

Shekhar, Sr. P.S

Copy forwarded to:

1. Appellant
2. Respondent

Sd/-
[R.K.PANDA]
ACCOUNTANT MEMBER

3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi