

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

**BEFORE SMT DIVA SINGH, JUDICIAL MEMBER
AND
SH.PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**I.T.A .No.-157/Del/2016
(ASSESSMENT YEAR-2011-12)**

K.G.Finvest Pvt.Ltd., C-5/14, Lower Ground Floor, Vasant Kunj, New Delhi-110070. PAN-AAACK4032H (APPELLANT)	vs	ACIT, Central Circle-13, New Delhi (RESPONDENT)
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Assessee by	Sh. Sumit Lal Chandan, Adv.
Revenue by	Sh. K.K.Jaiswal, Sr. DR

Date of Hearing	15.03.2016
Date of Pronouncement	05.05.2016

ORDER

PER DIVA SINGH, JM

The present appeal has been filed by the assessee assailing the correctness of the order dated for 04/11/2015 of CIT(A)- 23, New Delhi pertaining to 2011 – 12 assessment year on the following grounds

1. "Action of CIT(A) in not allowing the relief for the addition of Rs.1,41,326/- u/s 14A of the I.T.Act r.w.r.8D of I.T.Rules is unjust, illegal, arbitrary and against the facts and circumstances of the case.
2. Action of CIT(A) in not allowing the relief for the addition of Rs.1,56,000/- on account of unexplained cash credit in the bank account is unjust, illegal, arbitrary and against the facts and circumstances of the case.
3. Action of CIT(A) in not deleting the interest of Rs.5512/- u/s 234A and Rs.31,237/- u/s 234B of the I.T.Act is unjust, illegal, arbitrary and against the facts and circumstances of the case.
4. Action of CIT(A) in passing an ex-parte order u/s 143(30) of the I.T.Act without giving a reasonable opportunity of being heard on account of is unjust, illegal, arbitrary and against the facts and circumstances of the case."

2. At the time of hearing, a petition was moved on behalf of the assessee requesting consolidation on the ground that the earlier years appeals on identical issue are pending before different Benches. However, considering Ground No. 4 raised by the assessee in the present proceedings and considering the material available on record the said request was rejected. A perusal of the record shows that against the additions made by the AO during the assessment proceedings the assessee came in appeal before the First Appellate Authority. Whereas on the first occasion, an adjournment was moved on the ground that the arguing counsel was not in a position to argue on account of a ligament rupture. On the next occasion, an adjournment was moved. Thereafter attempts were made by the Ld. AR to inform the assessee in regard to the subsequent date of hearing which remained uncomplied with. Thereafter the assessee was represented again by the Ld. AR, Mr. Sumit Lal Chandan who stated that the notice had not been received by the assessee. It appears on the record that a change of address was intimated on behalf of the assessee. Subsequent notice sent to the said address which also remained uncomplied with.

3. In the circumstances, the appeal of the assessee was dismissed by the CIT(A). On a consideration of the impugned order, we find that the procedure adopted by the CIT(A) in deciding the appeal as required by the statute is not fulfilled. The procedure which the Commissioner (Appeals) is required to follow while deciding the appeals filed before the said authority is set out in section 250 of the Income Tax Act, 1961. A perusal of sub-section (6) of section 250 would show that the First Appellate Authority while disposing the appeal is required to make out its order in writing setting out the points for determination; the decision thereon and the reason for the decision. In the facts of the present case, it is seen that after having addressed the various

adjournments sought on behalf of the assessee, the appeal of the assessee has been dismissed holding that the assessee is not serious in pursuing the appeal. The said conclusion does not meet the statutory mandate. In view of this patent and obvious shortcoming, we deem it appropriate to set aside the impugned order and restore the issue back to the file of the CIT(A) with a direction to decide the same in accordance with law after giving the assessee a reasonable opportunity of being heard.

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

The order is pronounced in the open court on 05 of May, 2016.

Sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

Dated: 05/05/2016

Amit Kumar

Sd/-

**(DIVA SINGH)
JUDICIAL MEMBER**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI