

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

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND SH. KULDIP SINGH, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No.4064/Del/2018
(Assessment Year : 2013-14)

Saamag Infrastructure Ltd. B-67, Sarita Vihar New Delhi - 110076 PAN : AAJCS 5438 A (APPELLANT)	Vs.	DCIT Central Circle – 19 New Delhi (RESPONDENT)
--	-----	---

Assessee by	--None--
Revenue by	Shri Mahesh Thakur, Sr. D.R.

Date of hearing:	27.07.2021
Date of Pronouncement:	28.07.2021

ORDER

PER ANIL CHATURVEDI, AM :

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-27, New Delhi dated 21.03.2018 for Assessment Years 2013-14.

2. Assessee is a company stated to be engaged in the business of development and construction of real estate projects. Assessee electronically filed its return of income dated 31.03.2014 for A.Y.

2013-14 declaring income of Rs.3,09,43,740/-. The case was selected for scrutiny through CASS and assessment was framed under section 143(3) of the Income Tax Act, 1961 order dated NIL and the total taxable income was determined at Rs.3,14,68,740/-.

3. Aggrieved by the order of AO, assessee carried the matter before the CIT(A) who vide order dated 21.03.2018 in Appeal No.323/16-17 dismissed the appeal of the assessee. Aggrieved by the order of CIT(A), assessee is now before us and has raised the following grounds:

1. *“The CIT(A) ought to have not passed the order “ex-parte.*
2. *On the facts and circumstances of the case as well as settled legal positions, the addition of Rs.5,25,000/- as Deemed Dividend u/s 2(22)(e) of the Act is wrong.*
3. *The Assessing Officer has erred in applying the provisions of section 2(22)e of the IT Act, 1961 to the transactions undertaken by the appellant with the other group companies of the Saamag Group in the course of its business.*
4. *The AO has erred in holding that section 2(22)(e) of the Act does not differentiate between loans and advances received for business purposes or for any other purposes.*

The appellant craves leave to add, alter, amend or withdraw any of the grounds of appeal at the time of hearing.”

4. Case file reveals that there is no appearance on behalf of the assessee and even on the date of hearing none appeared on behalf of the assessee though the notice of hearing was issued to the assessee. We therefore proceed to dispose of the appeal *ex parte* qua the assessee after considering the material on record and hearing the DR.

5. Before us, Learned DR supported the order of lower authorities.

6. We have heard Learned DR and perused the material on record. The perusal of CIT(A) order reveals that CIT(A) has passed an *ex parte* order without deciding the issue on merits. Sub Section (6) of Section 250 of I. T. Act mandate the CIT(A) to state the points in dispute and thereafter assign the reasons in support of his conclusion. We are of the view that by dismissing the appeal without considering the issue on merits, Learned CIT(A) has failed to follow the mandate required in Sub Section (6) of Section 250 of the Act. Further it is also a well settled principle of natural justice that sufficient opportunity of hearing should be offered to the parties and no parties should be condemned unheard. In view of these facts, we set aside the impugned order of CIT(A) dated 21.03.2018 and restore the issue to the file of CIT(A) for re-adjudication of the issues after granting sufficient opportunity of hearing to the assessee. Assessee is also directed to furnish the details called for by the lower authorities. In view of our decision to restore the issue to CIT(A), we are not adjudicating on merits the grounds raised by the assessee. **Thus the ground of assessee is allowed for statistical purposes.**

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

Order pronounced in the open court on 28.07.2021

Sd/-

**(KULDIP SINGH)
JUDICIAL MEMBER**

Date:- 28.07.2021

*PY**

Copy forwarded to:

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

Sd/-

**(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR
ITAT NEW DELHI