

**IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH 'B', CHANDIGARH
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

ITA No. 530/Chd/2015
Assessment Year: 2011-12

M/s V.K. Sood Engineer & Contractor DDS JV, Unit-III, #20 Sector 6, Panchkula	Vs.	The Addl. CIT Panchkula Range Panchkula
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PAN No. AAGFV0584J

(Appellant)

(Respondent)

Assessee By	:	Sh. Vineet Kishan
Revenue By	:	Sh. Manjit Singh

Date of hearing	:	02/05/2018
Date of Pronouncement	:	09/05/2018

ORDER

PER DR. B.R.R. KUMAR, A.M.:

The present appeal has been filed by the Assessee against the order of the Ld. CIT(A), Panchkula, dt. 10/03/2015.

2. In the present appeal Assessee has raised the following grounds:

1. That the order passed under section 250(6) of the Income Tax Act, 1961 by the Ld. Commissioner of Income Tax, (Appeals), Panchkula in Appeal No. 109/PkI/13-14 dated 10.03.2015 is contrary to law and facts of the case.

2. That in the facts and circumstances of the case the Ld Commissioner of Income Tax (Appeals) gravely erred in not giving reasonable opportunity of being heard to the appellant which is against the natural principle of justice.

3. That in the presence of proper books of accounts maintained by the appellant duly supported by bills and vouchers, the Ld. Commissioner of Income Tax (Appeals), Panchkula gravely erred in upholding the action of Ld Assessing officer in making blanket disallowance of 40% of total expenses claimed by the appellant resulting in addition of Rs. 1,29,89,689/-.

2(a) Without prejudice to the above, the disallowance is highly excessive.

4. That in the facts and circumstances of the case, the Ld. Commissioner of Income Tax gravely erred in upholding addition of Rs. 1,16,995/- made by the Ld. Assessing Officer who made blanket disallowance of 20% of the following expenses:-

1) Vehicle running and maintenance	Rs. 3,25,729/-
2) Travelling	Rs. 1,16,778/-
3) Telephone	Rs. 1,42,470/-
Total	Rs. 5,84,977

4. That in the facts and circumstances of the case the Id. Commissioner of Income Tax gravely erred in upholding addition of Rs. 13,25,838/- made by the Id. Assessing Officer by disallowing the interest on the alleged ground that interest free loans were given to sister concern.

5. That in the facts and circumstances of the case the Id. Commissioner of Income Tax gravely erred in upholding addition of Rs. 3,52,893/- made by the Id. AO by restricting the depreciation on trailers @ 15% as against the claim and allowable depreciation @ 30%.

6. That in the facts and circumstances of the case the Id. Commissioner of Income Tax gravely erred in upholding the charging of interest under section 234B and 234C of the Income Tax Act which in any case is excessive.

3. Brief facts of the case are that the assessee, engaged in construction activity as contractor, filed its return of income on 30.09.2011 declaring income of Rs.49,56,930/- and the assessment u/s 143(3) was completed determining the total income at Rs. 1,97,42,335/-.

4. The notices issued and the reply filed during the appellate proceeding before the Ld. CIT(A) are as under:

Sl. No.	Particulars	Remarks
i.	Notice dated 05.08.2014 fixed for 21.08.2014	Letter received in dak for adjournment
ii.	Notice dated 03.09.2014 fixed for 18.09.2014	On request the case adjourned for 14/10/2014
iii.	On 14.10.2014	Letter received in dak for adjournment
iv.	Notice dated 14.11.2014 fixed for 02.12.2014	Letter received in dak for adjournment
v.	Notice dated 15.12.2014 fixed for 12.01.2015	
vi.	On 09.01.2015	Case adjourned for 29/01/2015
vii.	On 29.01.2015	On request the case adjourned for last time for 18/02/2015
ix.	On 18.02.2015	No Compliance

5. Owing to non compliance to the notices , the Ld. CIT(A) passed an order by deciding the issues based on the facts available on record.

6. Before us, the Ld. AR in his oral arguments pleaded that the counsel could not attend the proceedings before the Ld. CIT(A) owing to ill health for a longer duration of the year. He argued that given an opportunity of being heard, the assessee would comply to all the notices and submit all the required details before the Ld. CIT(A).

7. Ld. DR. fairly agreed to the proposition of remanding the matter back to the file of the Ld. CIT(A) for adjudication afresh.

8. Hence we are of the opinion that the interest of the justice would be met if an opportunity of being heard is given to the assessee. And we also direct the assessee to comply to the notices issued by the Ld. CIT(A) promptly and not to abuse the faith imposed on him while remanding the matter for adjudication *de-novo*.

9. In the result appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open Court.

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

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

Dated : 09/05/2018
AG

Copy to:

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