

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

**BEFORE SH. R. K. PANDA, ACCOUNTANT MEMBER  
AND  
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA No.2979/DEL/2015  
Assessment Year: 2008-09

M/s. Techmobia Digital Solution Pvt. Ltd., F-26, 1 <sup>st</sup> Floor, Connaught Circus, New Delhi-110001 PAN AABCC8565A	Vs	DCIT Co. Circle . 25 (2) New Delhi
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	None
Respondent by	Sh. K. Tiwari, Sr. DR

Date of hearing:	18/06/2018
Date of Pronouncement:	19/06/2018

**ORDER**

**PER R. K. PANDA, AM:**

This appeal filed by the assessee is directed against the ex-parte order dated 03.02.2015 passed by Ld. CIT (A)-19, New Delhi relating to A. Y. 2008-09.

2. None appeared on behalf of the assessee at the time of hearing. Therefore, the appeal is being decided on the basis of material available on

record and after hearing the Ld. DR.

3. Although a number of grounds have been raised by the assessee, however, they all relate to the order of the CIT (A) in confirming the penalty of Rs.10,98,069/- levied by the Assessing Officer u/s 271 (1) (c) of the IT Act.

4. After hearing the Ld. DR and on perusal of the orders of the authorities below, we find the assessee is a company engaged in the business of SMS services. It filed its return of income on 29.09.2008 declaring total income of Rs.92,60,844/-. The Assessing Officer completed the assessment u/s. 143 (3) determining the total income at Rs. 1,29,11,840/- wherein he made the following three additions totalling to Rs.30,51,040/-.

(i)	Set up fee	:	Rs.26,71,040/-
(ii)	Earnest money written off	:	Rs.3,50,000/-
(iii)	Security written off	:	Rs.30,000/-

5. The appeal filed by the assessee was dismissed by the CIT (A) in the quantum proceedings. The Assessing Officer thereafter initiated penalty proceedings u/s. 271 (1) (c) of the IT Act. Rejecting the explanation given by the assessee and relying on various decisions, the Assessing Officer levied penalty of Rs.10,98,069/- u/s. 271 (1) (c) of the IT Act being 100% of the tax sought to be evaded. Since none appeared on behalf of the assessee, the Ld. CIT (A), in the ex-parte order passed by him, sustained the penalty

levied by the Assessing Officer.

6. A perusal of the order of the CIT (A) shows that notices were issued to the assessee only twice by speed post and there was non compliance for which the Ld. CIT (A) passed the ex-parte order confirming the penalty levied by the Assessing Officer.

7. Considering the totality facts of the case and in the interest of justice we deem it proper to restore the issue to the file of the CIT (A) with a direction to grant one final opportunity to the assessee to substantiate its case. The assessee is also hereby directed to appear before the Ld. CIT (A) and substantiate his case 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 accordingly allowed for statistical purposes.

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

Order pronounced in the open court on 19.06.2018.

Sd/-

**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

*\*NEHA\**

*Date:- 19.06.2018*

Copy forwarded to:

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

Sd/-

**(R.K.PANDA)**  
**ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	18.06.2018
Date on which the typed draft is placed before the dictating Member	19.06.2018
Date on which the typed draft is placed before the Other member	19.06.2018
Date on which the approved draft comes to the Sr.PS/PS	19.06.2018
Date on which the fair order is placed before the Dictating Member for Pronouncement	19.06.2018
Date on which the fair order comes back to the Sr. PS/ PS	19.06.2018
Date on which the final order is uploaded on the website of ITAT	19.06.2018
Date on which the file goes to the Bench Clerk	19.06.2018
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	