

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

**BEFORE SHRI G. D. AGRAWAL, VICE PRESIDENT  
AND  
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

**I.T.A. No. 3088/DEL/2016 (A.Y 2011-12)**

Net 4 India Ltd. AB-11, Community Centre, 139/1 SF Mohammudpur New Delhi      AAAC0291M <b>(APPELLANT)</b>	Vs	DCIT Circle-13(1) New Delhi  <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Sh. R. S. Singhvi, CA</b>
<b>Respondent by</b>	<b>Sh. N. K. Bansal, Sr. DR</b>

<b>Date of Hearing</b>	<b>01.04.2019</b>
<b>Date of Pronouncement</b>	<b>02.04.2019</b>

**ORDER**

**PER SUCHITRA KAMBLE, JM**

This appeal is filed by the assessee against the order dated 23/03/2016 passed by CIT(A)-20, New Delhi for Assessment Year 2011-12.

2. The grounds of appeal are as under:-

“1(i) *That on facts and circumstances of the case, the Ld. CIT (A) was not justified in passing ex-parte order without granting reasonable opportunity to the appellant.*

(ii) *That in absence of service of notice of hearing, the impugned order is illegal and against principles of natural justice.*

(iii) *That even otherwise, the appeal was dismissed on mechanical basis without following procedure laid down in section 250(4) of the I T Act, 1961.*

2(i). *That on facts and circumstances of the case, the assessing officer was not justified in making disallowance u/s 14A read with rule 8D to the*

*extent Rs. 50,51,081/-.*

*(ii) That the disallowance is illegal, arbitrary and without proper appreciation of facts and legal provisions as same was without recording of proper satisfaction.*

*3(i). That on the facts and circumstances of the case, the Assessing Officer has erred in making disallowance of Rs. 5,77,46,000/- u/s. 40(a)(i) on the alleged ground that the TDS has not been deducted.*

*(ii) That the Assessing Officer has' not properly appreciated the facts and wrongly applied provisions of sec. 9(l)(vi) explanation 2(1) and explanation 3.*

*(iii) That the assessee was not liable to deduct TDS in terms of provisions of sec. 195 and as such there is no case of any disallowance u/s. 40(a)(i) of the Income tax Act, 1961.*

*4(i). That the assessing officer has also erred in making disallowance of Rs. 29,93,740/- alleged to be claim of inflated expenses in respect of transactions with Global Energy Pvt. Ltd.*

*(ii) That genuineness of the claim being not in dispute, there is no justification for disallowance of the same.”*

3. The assessee Company was engaged in the business of providing Internet Infrastructure Solutions. Return of Income was filed electronically on 29/09/2011 declaring income of Rs. 19,31,38,170/-. The case was selected for scrutiny assessment and notice u/s 143(2) of the Income Tax Act, 1961 dated 20/09/2012 was issued and duly served upon the assessee within the prescribed statutory time limit. Thereafter, further notice u/s 142(1) of the Act dated 10/06/2013 along with questionnaire was issued and duly served upon the assessee. In response to these statutory notices CA/AR of the assessee company attended the assessment proceeding and filed necessary details/documents as called for therein from time to time. The Assessing Officer after examining the details made addition of Rs.50,51,81/- in respect of disallowance u/s 14A read with Rule 8D. The Assessing Officer further made

addition of Rs.5,77,46,000/- in respect of non deduction of TDS u/s 195 on the income charitable tax in India and thus as per the provisions of Section 40(a)(i) of the Act. The Domain Rent Registration Domain/Royalty was disallowed. The Assessing Officer also made disallowances of interest on late deposit of TDS and made addition of Rs.4,70,000/- along with addition of Rs. 29,93,740/- in respect of transactions with Global Energy Pvt. Ltd. Thus, the Assessing Officer assessed in income of Rs. 25,93,98,990/-.

4. Being aggrieved by the assessment order the assessee filed appeal before the CIT (A). The CIT (A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the CIT (A) has not granted reasonable opportunity to the assessee and in fact has not taken into account the evidences filed before the Assessing Officer. The Ld. AR submitted that the matter may be remanded back to the CIT(A) as the order of the CIT(A) is ex-parte and principle of natural justice has not been followed by the CIT(A).

6. The Ld. DR relied upon the order of the Assessing Officer and the order of the CIT (A).

7. We have heard both the parties and perused the material available on record. It is pertinent to note that the order of the CIT(A) is ex-parte and has not taken cognizance of the relevant evidences produced before the Assessing Officer during the assessment proceedings as well. The order is non-speaking. Therefore, we are setting aside the order of the CIT(A) and remanding back all the issue to the file of the CIT(A) for deciding the issues on merit. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice.

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

**Order pronounced in the Open Court on 02<sup>nd</sup> APRIL, 2019.**

Sd/-

**(G. D. AGRAWAL)**  
**VICE PRESIDENT**

Sd/-

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

Dated: 02/04/2019

*R. Naheed \**

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT NEW DELHI

Date of dictation	01.04.2019
Date on which the typed draft is placed before the dictating Member	02.04.2019
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	2.04.2019
Date on which the final order is uploaded on the website of ITAT	2.04.2019
Date on which the file goes to the Bench Clerk	2.04.2019
Date on which the file goes to the Head Clerk	