

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'B' : NEW DELHI)**

**BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER  
and  
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.270 /Del./2017  
(ASSESSMENT YEAR : 2012-13)**

M/s. DBG Leasing and Housing Ltd., vs. DCIT, Circle 7 (2),  
C – 88, Gali No.8, Jyoti Colony, New Delhi.  
Shahdara,  
New Delhi – 110 032.

**(PAN : AAACD0473F)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Ashish Goel, CA  
REVENUE BY : Ms. Nidhi Srivastava, CIT DR

Date of Hearing : 11.07.2019

Date of Order : 16.07.2019

**ORDER**

**PER KULDIP SINGH, JUDICIAL MEMBER :**

Appellant, M/s. DBG Leasing and Housing Ltd. (hereinafter referred to as the 'assessee') by filing the present appeal sought to set aside the impugned order dated 01.12.2016 passed by the Commissioner of Income-tax (Appeals)-3, New Delhi qua the assessment year 2012-13 on the grounds inter alia that :-

***“1. That on the facts and circumstances of the case and in law, the Commissioner of Income tax (Appeals)-3, New Delhi [briefly "the CIT(A)"] has erred in upholding assessment at total income of***

*Rs.14,65,22,872/- as against returned loss of Rs.2,48,25,061/-. The Appellant denies its liability to be assessed at the income of Rs.14,65,22,872/-.*

*2. That on the facts and circumstances of the case and in law, the CIT(A) has erred in disposing the appeal ex-parte for the reason that the appeal was fixed for hearing on 14.11.2016 but the Appellant did not attend the hearing on 14.11.2016. The CIT(A) did not appreciate that 14.11.2016 was a national holiday and the Income tax Department was closed.*

*3. That on the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the disallowance of Rs.2,46,60,000/- being the loss on sale of shares to M/s Jaideep Ispat and Alloys Pvt. Ltd. The CIT(A) failed to appreciate that the loss was due to distress sale of shares.*

*4. That on the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the addition of Rs.13,55,00,000/- under section 68 of the Act, treating the share application money as bogus.*

*5. That on the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the addition of Rs.52,217/- under section 14A read with Rule 8D of the Act.*

*6. That on the facts and circumstances of the case and in law, the CIT(A) has erred in upholding the addition of Rs.1,11,35,616/- being notional interest on average interest free advance of Rs.9,27,96,800/-.”*

2. Briefly stated the facts necessary for adjudication of the controversy at hand are : Assessing Officer (AO) framed assessment under section 143 (3) of the Income-tax Act, 1961 (for short ‘the Act’) at the total income of Rs.14,65,22,872/- as against declared loss of Rs.2,48,25,061/- by making addition of Rs.2,46,60,000/- on account of

disallowance of loss claimed by the assessee. AO also made addition of Rs.13,55,00,000/- u/s 68 of the Act received by the assessee on account of share application money through paper companies. AO also made addition of Rs.52,217/- u/s 14A and addition of Rs.1,11,35,616/- on account of notional interest chargeable on the said average loan claimed by the assessee @ 12%.

3. Assessee carried the matter by way of an appeal before the Id. CIT (A) who has dismissed the appeal for want of prosecution. Feeling aggrieved, the assessee has come up before the Tribunal by way of filing the present appeal.

4. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

5. Bare perusal of the impugned order passed by the Id. CIT (A) goes to prove that due to non-appearance of the assessee despite issuance of notice, appeal has been dismissed for want of non-prosecution. No doubt, notices were reportedly sent to the assessee on number of times and final notice was sent on 18.10.2016 and on 02.11.2016, Authorized Representative of the assessee sought adjournment and consequently, the case was adjourned to 14.11.2016 on which date none was appeared and consequently the appeal was dismissed for want of prosecution.

6. We are of the considered view that assuming the assessee on fault by not pursuing his appeal by putting in appearance but, in that eventuality, the Id. CIT (A) is required to dispose of the appeal on merits. Taking holistic view, the controversy at hand is required to be decided once for all and to stop the multiplicity of the litigation, present appeal is required to be remanded back to the Id. CIT (A) to decide afresh on merits after providing adequate opportunity of being heard to the assessee, if so availed. Consequently, the appeal filed by the assessee is allowed for statistical purposes.

**Order pronounced in open court on this 16<sup>th</sup> day of July, 2019.**

**Sd/-  
(R.K. PANDA)  
ACCOUNTANT MEMBER**

**sd/-  
(KULDIP SINGH)  
JUDICIAL MEMBER**

**Dated the 16<sup>th</sup> day of July, 2019  
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-3, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT  
NEW DELHI.**