

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'C' BENCH,  
NEW DELHI

[THROUGH VIDEO CONFERENCING]

BEFORE N.K. BILLAIYA, ACCOUNTANT MEMBER

AND

BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER,

ITA No.7668/DEL/2017  
[Assessment Year: 2012-13]

Janak Crane Pvt. Ltd., 5/3, Facility Centre, Mayapuri, Phase-II, New Delhi	DCIT, Circle-13(1), New Delhi
<b>PAN- AACJJ1668E</b>	
Appellant	Respondent

Assessee by	Sh. Baldev Raj, CA
Revenue by	Sh. Mahesh Thakur, Sr. DR

<b>Date of Hearing</b>	<b>23.03.2021</b>
<b>Date of Pronouncement</b>	<b>23.03.2021</b>

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER,**

This appeal by the assessee is preferred against the order of the CIT(A)-5, New Delhi dated 31.01.2017 pertaining to assessment year 2012-13. The grievance of the assessee read as under:-

1. *That due to several serious medical problems in the family of the Directors of the appellant company, the Directors were neither able to attend to the business of the company nor were able to represent and make submission before the learned Commissioner of Income Tax (Appeals)-5, New Delhi (hereinafter called CIT(A) for the sake of brevity). That, therefore, in the interest of justice, the matter may be restored to CIT(A).*
2. *That on the facts in the circumstances of the cases, CIT(A) erred in confirming the decision of the AO in disallowing interest of RS. 1,63,48,101/-*

*under section 40(a)(ia) of the Income Tax Act, 1961(Act for short).*

3. *That on the facts in the circumstances of the cases, CIT(A) erred in upholding the decision of the AO in including a sum of Rs. 2,72,02,102/- in the total income of the appellant u/s 68 of the Act.*
4. *That on the facts and in the circumstances of the cases, CIT(A) erred in confirming the disallowance of Rs. 61,91,997/- out of interest claimed by the appellant on the ground of alleged lack of business exigency.*
5. *That on the facts and in the circumstances of the case, CIT(A) erred in confirming the action of the AO in including a sum of Rs. 1,80,20,227/- in the total income of the appellant under the head 'income from other sources' without appreciating that the aforesaid amount represented sale of a crane held as capital asset forming part of the 'machinery block' & thus went to reduce the WDV of the 'machinery block'.*
6. *That on the facts and in the circumstances of the case, CIT(A) erred in enhancing the total income by disallowing a further sum of Rs. 53,49,358/- out of interest expenditure on account of alleged lack of business exigency.*

2. At the very outset, the counsel for the assessee stated that the earlier counsel did not attend the appellate proceedings and there were certain documents which needed to be filed but could not be filed as the earlier counsel did not defend the case of the assessee properly.

3. We have carefully perused the orders of the first appellate authority. We find that in spite of the notices, none attended and the CIT(A) was left with no choice but to dispose the appeal *ex parte*.

4. In the interest of justice and fair play, we deem it fit to restore the appeal to the files of the CIT(A). The assessee is directed to attend the proceedings before the first

appellate authority and the CIT(A) is directed to decide the appeal afresh after giving a reasonable and proper opportunity of being heard to the assessee.

5. In the result, the appeal is allowed for statistical purposes.

The order is pronounced in the open court on 23/03/2021.

**Sd/-**

**[SUCHITRA KAMBLE]  
JUDICIAL MEMBER**

**Delhi;** Dated: 23/03/2021.

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Copy forwarded to:

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

**Sd/-**

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Asst. Registrar,  
ITAT, New Delhi