

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

**BEFORE SHRI N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

**I.T.A. No. 2117/DEL/2013 (A.Y 2004-05)**

**(THROUGH VIDEO CONFERENCING)**

DCIT Circle-11(1), Room No. 312 C.R. Building New Delhi <b>(APPELLANT)</b>	Vs	IRCON International Ltd. C-4, District Centre Saket New Delhi AAAC10684H <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Sh. Mahesh Thakur, Sr. Adv</b>
<b>Respondent by</b>	<b>Dr. Rakesh Gupta, Adv &amp; Sh. Somil Agarwal, Adv</b>

<b>Date of Hearing</b>	<b>24.03.2021</b>
<b>Date of Pronouncement</b>	<b>24.03.2021</b>

**ORDER**

**PER SUCHITRA KAMBLE, JM**

This appeal is filed by the Revenue against order dated 10/11/2009 passed by CIT(A)-XXX, New Delhi for assessment year 2004-05.

2. The grounds of appeal are as under:-

*“1. On the facts and circumstances of the case and in law, the Ld.CIT(A) has erred in deleting the addition of Rs.3,60,00,000/- made on account of Technical knowhow and agency charges being treated the same as capital expenditure.*

*2. On the facts and circumstances of the case and in law, the Ld.CIT(A) has erred in deleting the addition of Rs.1,50,50,000/- made on account of prior period expenses.*

*3. On the facts and circumstances of the case and in law, the Ld.CIT(A) has erred in allowing the grounds related to challenging the initiation of*

*reassessment proceedings u/s 147 of the Act without discussing this issue on merits.*

3. The assessee is a Government of India Undertaking, engaged inter alia, in the business of execution of Civil Engineering, Electrical, Communication and Turkey Contracts within India as well as abroad. For the previous year relevant to the assessment year under consideration, the assessee company filed its original Return of Income on 29-10-2004, declaring the Total Income of Rs. 325,361,850/- under the normal provisions of the Act and Book Profits amounting to Rs. 252,248,183/- as per provisions of section 115JB of the Act. Subsequently, revised Return of Income was filed by the assessee company on 30-03-2006 declaring the Total Income of Rs. 61,614,780/- under the normal provisions of the Act and same amount of Book Profits, u/s 115JB of the Act, as disclosed in original return of income. Assessment proceedings were completed vide order u/s 143(3) dated 29-12-2006. In the said order, the Ld. Assessing Officer (hereinafter referred to as the 'Ld. AO') made certain disallowances and/or additions to the total income under normal provisions of the Act, determining the assessed income for the year at Rs. 69,06,09,687/-. Further, Book Profits as per section 115JB of the Act were assessed at Rs.51,13,62,466/-.

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

5. The Ld. DR submitted that the CIT (A) erred in deleting the addition of Rs.3,60,00,000/- made on account of technical knowhow and agency charges being treated as capital expenditure . Further, the Ld. DR also submitted that the CIT(A) erred in deleting the addition of Rs. 1,50,50,000/- made an amount of prior period expenses. The Ld. DR submitted that the CIT(A) has erred in allowing the grounds related to challenging initiation of reassessment

proceedings u/s 147 C discussing the said issue on merit. The Ld. DR further submitted that the order of the CIT(A) has summarily allowed all these issues and has not adjudicated the same with proper finding or reasoning. Therefore, the Ld. DR submitted that all the issues is remanded back to the file of CIT(A).

6. The Ld. AR submitted that the order of the CIT(A) is not speaking order and has not decided the issue of reassessment/reopening. Thus, the matter may be remanded back to the file of the CIT(A).

7. We have heard both the parties and perused the material available on record. Both the parties agree that the order of the CIT(A) is not a speaking order and after perusal of the order of the CIT(A), we also find that all the issues were not properly settled and adjudicated by the CIT(A) including the issue of initiation of reassessment. Therefore, it will be appropriate to remand back this matter to the file of the CIT(A) for adjudicating the same afresh on legal issues as well as on merit with proper and detailed finding. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice.

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

**Order pronounced in the Open Court in presence of both the parties on this 24<sup>th</sup> Day of March, 2021**

**Sd/-**  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

Dated: 24/03/2021  
*R. Naheed \**

Copy forwarded to:

1. Appellant
2. Respondent

3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI