

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI "SMC-2" BENCH: NEW DELHI**

**(THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.1954/Del/2020  
[Assessment Year : 2016-17]**

DBH International Pvt.Ltd., 801-803, Tower-B, Global Business, M G Road, Gurgaon, Haryana-122001. PAN-AAACD0085D	vs	ACIT, Circle-7(2), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Sh. G. S. Grewal, CA	
<b>Respondent by</b>	Sh. Om Prakash, Sr.DR	
<b>Date of Hearing</b>	09.11.2021	
<b>Date of Pronouncement</b>	09.11.2021	

**ORDER**

**PER KUL BHARAT, JM :**

This appeal filed by the assessee for the assessment year 2016-17 is directed against the order of Ld. CIT(A), Delhi dated 23.10.2019.

The assessee has raised following grounds of appeal:-

1. *"On the facts and circumstances of the case, the order passed by the learned Commissioner of Appeals ["CIT(A)"] is bad both in the eye of law and on facts.*
2. *On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts & in law, in passing the order without giving the assessee an adequate and proper opportunity of being heard in violation of principle of natural justice.*
3. *On the facts and circumstances of the case, the ld. CIT(A) has erred both on facts and in law in confirming the actions of the AO in making a disallowance of Rs.2,02,61,728/- under Sec 37(1) of the Act, since*

- a. *The AO has erred in assuming that there has been no business activity during the year.*
  - b. *The AO has failed to understand the nature of these expenditures and their commercial expediencies.*
  - c. *The AO has erred in ignoring the details, documents and replies furnished by the assessee and by completing the proceedings by applying personal whims and fancies.*
4. *On the facts and circumstances of the case, the learned AO has erred both on facts and in law in charging interest under Section 234A, 234B and 234C of the Act.*
  5. *The appellant craves leave to add, amend or alter any of the grounds of appeal.”*

2. At the outset, Ld. Counsel for the assessee submitted that the assessee was not afforded sufficient opportunity to represent its case by Ld.CIT(A). He submitted that in the interest of principle of natural justice, opportunity may be given to the assessee to represent his case before Ld.CIT(A). He further undertook that no adjournment would be sought without a reasonable cause.

3. Per contra, Ld. Sr. DR vehemently opposed these submissions and supported the order of Ld.CIT(A). Ld. Sr. DR submitted that the assessee has been thoroughly negligent and no inference is called for, under the facts and circumstances of the present case.

4. I have heard the rival contentions and perused the material available on record and gone through the orders of the authorities below. I find that Ld.CIT(A) in para 4, has provided various opportunities to the assessee, stated as under:-

4. *“In order to give proper opportunity to the appellant to present its case, the case was posted for hearing on various dates, the details of which are as under:-*

<i>Date of Notice</i>	<i>Date of hearing fixed</i>	<i>Status</i>
<i>04.07.2019</i>	<i>29.07.2019</i>	<i>Notice sent through speed post &amp; e-mail. On 29.07.2019, on request of the AR, the case was adjourned to 02.09.2019. On 02.09.2019, there was no compliance.</i>
<i>05.09.2019</i>	<i>22.10.2019</i>	<i>No compliance. Notice sent through speed post &amp; e-mail.</i>

5. This demonstrates that the assessee was not serious in attending the proceedings. However, considering the interest of principle of natural justice, I deem it proper to set aside the impugned order and restore the same to the file of Ld.CIT(A) to decide it afresh after giving sufficient opportunity to the assessee. Thus, grounds raised by the assessee are allowed for statistical purposes.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Above decision was pronounced on conclusion of Virtual Hearing in the presence of both the parties on 09<sup>th</sup> November, 2021.

**Sd/-**

**(KUL BHARAT)  
JUDICIAL MEMBER**

*\*Amit Kumar\**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI