



**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH "SMC", LUCKNOW**

BEFORE SHRI. A. D. JAIN, VICE PRESIDENT

ITA No.03/LKW/2021
Assessment Year: 2008-09

M/s IBFA Academics Pvt. Ltd. 112/206, A, Swaroop Nagar Kanpur	v.	The ITO 6(1) Kanpur
TAN/PAN:		
(Appellant)		(Respondent)

Appellant by:	Shri Swaran Singh, C.A.		
Respondent by:	Shri Harish Gidwani, D.R.		
Date of hearing:	15	06	2022
Date of pronouncement:	15	06	2022

ORDER

This is assessee's appeal against the order of the ld. CIT(A)-1, Lucknow, dated 18.12.2019, for the Assessment Year 2011-12, raising the following grounds of appeal:

1. *That the Ld. Commissioner of Income Tax Rs.14,700/- (Appeals)-II, Kanpur has erred in law and on facts in sustaining the alleged disallowance arbitrarily made by the Ld. A.O. amounting to Rs.49,000/- incurred by the appellant on account of Research & Development Expenses.*
2. *That the Ld. Commissioner of Income Tax Rs.9,504/- (Appeals)-II, Kanpur has erred in law and on facts in sustaining the alleged disallowance arbitrarily made by the Ld. A.O. amounting to Rs.31,680/- incurred by the appellant on account of Repairs & Maintenance Expenses and Printing & Stationery Expenses.*

3. *That the Ld. Commissioner of Income Tax (Appeals)-II, Kanpur has erred in law and on facts in sustaining the alleged disallowance arbitrarily made by the Ld. A.O. amounting to Rs.81,000/-incurred by the appellant on account of payment of Salary to the staff members.* Rs.24,300/-
4. *That the Ld. Commissioner of Income Tax (Appeals)-II, Kanpur has erred in law and on facts in sustaining the alleged addition arbitrarily made by the Ld. A.O. amounting to Rs.98,523/- incurred by the appellant on account of investment in Fixed Assets.* Rs.29,557/-
5. *That the Ld. Commissioner of Income Tax (Appeals)-II, Kanpur has erred in law and on facts in sustaining the alleged disallowance arbitrarily made by the Ld. A.O. amounting to Rs.11,605/- incurred by the appellant on account of Depreciation.* Rs.3,482/-
6. *That the Ld. Commissioner of Income Tax (Appeals)-II, Kanpur has erred in law and on facts in sustaining the alleged disallowance arbitrarily made by the Ld. A.O. amounting to Rs.4,000/- incurred by the appellant on account of Canopy Expenses, Office Expenses & Miscellaneous Expenses.* Rs.1,200/-
7. *That the Ld. Commissioner of Income Tax (Appeals)-II, Kanpur has erred in law and on facts in sustaining the alleged disallowance arbitrarily made by the Ld. A.O. amounting to Rs.5,000/- incurred by the appellant on account of Generator Running Expenses.* Rs.1,500/-
8. *That the Ld. Commissioner of Income Tax (Appeals)-II, Kanpur has erred in law and on facts in sustaining the alleged Addition arbitrarily made by the Ld. A.O. amounting to Rs.2,36,500/-incurred by the appellant on account of Share* Rs.70,950/-

9. *That the Ld. Commissioner of Income Tax (Appeals)-II, Kanpur has erred in law and on facts in sustaining the alleged Addition arbitrarily made by the ld. A.O. amounting to Rs.2,88,000/-incurred by the appellant on account of Unsecured Loan.*
10. *That the Ld. Commissioner of Income Tax (Appeals)-II, Kanpur has erred in law and on facts in arbitrarily dismissing the appeal of the appellant company in an ex-parte manner without giving reasonable opportunity of being heard to the appellant company.*
11. *That the Ld. Commissioner of Income Tax (Appeals)-II, Kanpur has erred in law and on facts in sustaining the alleged Addition/disallowances arbitrarily made by the Ld. A.O. is without proper basis and unjustified and deserves to be deleted.*
12. *That the Ld. Commissioner of Income Tax (Appeals)-II, Kanpur has erred in law and on facts in sustaining the alleged Addition/disallowances arbitrarily made by the Ld. A.O. is much too high and excessive and deserves to be deleted.*
14. *That the Ld. Commissioner of Income Tax (Appeals)-II, Kanpur has erred in law and on facts in sustaining the alleged Addition/disallowances arbitrarily made by the Ld. A.O. is contrary to the Principles of natural justice and equity and deserves to be deleted.*
15. *That the impugned Assessment Order is without Jurisdiction and therefore is liable to be quashed.*
16. *That any other relief or reliefs as your honour may deem fit in the facts and circumstances of the case be granted.*

2. Arguing Ground no.10 first, the ld. Counsel for the assessee has contended that the ld. CIT(A) has erred in dismissing the appeal ex-parte qua the assessee, without providing due and adequate opportunity of hearing; and that the notices of hearing had not been received by the assessee. It has been submitted that the matter may be remitted to the ld. CIT(A) to decide the appeal on merit.

3. The ld. D.R., on the other hand, has placed reliance on the order of the ld. CIT(A).

4. Heard. I find that the CIT(A) has dismissed the appeal without providing proper opportunity to the assessee. Moreover, he has not decided the appeal after discussing in detail, his reasons for agreeing with the assessment order. In this view of the matter, another opportunity of hearing requires to be given to the assessee to represent his case fully before the ld. CIT(A). Even otherwise, it is trite [*S. Velu Palandar Vs. DCIT* 83 ITR 683 (Mad.) and *Ms. Swati Pawa vs. Dy. CIT*, 175 ITD 622 (Del)] and incumbent on the ld. CIT(A) to decide an appeal on merit even in the absence of any representation before them.

5. In view of the above, the matter is remitted to the file of the ld. CIT(A) to be decided afresh on merit, in accordance with law, on affording due and adequate opportunity of hearing to the assessee, preferably within two months from the date of receipt of this order. The assessee, no doubt, shall cooperate in the fresh proceedings before the ld. CIT(A). All pleas available under the law shall remain so available to the assessee. Ordered accordingly.

6. In the result, for statistical purposes, the appeal is treated as allowed.

Order pronounced in the open Court on 15/06/2022.

Sd/-
[A. D. JAIN]
VICE PRESIDENT

DATED:15/06/2022

JJ:

Copy forwarded to:

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

By order

Assistant Registrar