

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

**BEFORE SHRI B. R. R. KUMAR, ACCOUNTANT MEMBER
AND
SH. YOGESH KUMAR US, JUDICIAL MEMBER**

I.T.A. No. 3740/DEL/2019 (A.Y 2015-16)

Sanoh India Pvt. Ltd., 303, DDA HIG Flats, Block-1, Pocket-B, Motia Khan, New Delhi - 110 055. PAN No. AARCS4790B (APPELLANT)	Vs	DCIT Circle : 22 (1), New Delhi (RESPONDENT)
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Assessee by :	Shri Upvan Gupta, C.A.;
Department by:	Shri Lalit Kishore, Sr. D.R.;

Date of Hearing	25.05.2022
Date of Pronouncement	08.07.2022

ORDER

PER YOGESH KUMAR U.S., JM

This appeal is filed by the assessee against the order dated 01.03.2019 of the Ld. Commissioner of Income Tax (Appeals)-XXV, New Delhi [hereinafter referred to CIT (Appeals)] for Assessment Year 2015-16.

2. The grounds of appeal are as under:-

“ The under mentioned grounds of appeal are independent of and without prejudice to one another. On the facts and circumstances of the case and in law the appellant submits as under:

1. *That on the facts and circumstances of the case and in law, the order of the Hon'ble CIT(A) is wrong, perverse, illegal and against the provisions of law.*

2. *That on the facts and circumstances of the case and in law, the Hon'ble CIT(A) has erred in passing the impugned order, against the principles of natural justice and without considering the merits of the case.*

3. *That on the facts and circumstances of the case and in law, the Hon'ble CIT(A) has erred in dismissing the appeal without considering the appellant's submissions and without giving sufficient opportunity of being heard to the appellant.*

4. *That on the facts and circumstances of the case and in law, the action of the Hon'ble CIT(A) in confirming the disallowances made by the assessing officer in the assessment order is against the settled legal position qua issues under consideration.*

5. *That on the facts and circumstances of the case and in law, the Hon'ble CIT(A) erred in confirming the action of the assessing officer in making a disallowance of INR 2,27,10,439 on account of unsubstantiated expenses, viz., expatriate salary.*

5.1 *That on the facts and circumstances of the case and in law, the Hon'ble CIT(A) erred in confirming the action of the assessing officer in making aforesaid disallowance, without appreciating that the expenditure incurred by assessee on account of expatriate salary has been allowed by the assessing officer in assessment proceedings for immediately preceding assessment year, viz., assessment year 2014-15.*

6. *That on the facts and circumstances of the case and in law, the Hon'ble CIT(A) erred in confirming the action of the assessing officer in making a disallowance of INR 3,39,079 on account of various statutory dues under the provisions of Section 43B of the Act. “*

3. Brief facts of the case are that, the assessee company is engaged in the business of manufacturing of Fuel Injection Rails (FIR) of the auto mobile

sector. Assessment order came to be passed on 29/12/2017 against the assessee u/s 143(3) of the Income Tax Act by making an addition of Rs.2,30,49,518/- by assessing total loss at Rs. 2,41,75,499/- as against returned loss at Rs. 4,72,25,017/-. As against the assessment order dated 29/12/2017, the assessee has preferred an appeal before CIT(A). After filing the appeal the assessee remained absent in the appeal proceedings before the CIT(A) and not filed any submission. The Ld. CIT(A) has dismissed the appeal on 01/03/2019 by invoking doctrine of *vigilantibus non dormientibus* (The laws serve the vigilant, not those who sleep).

4. Aggrieved by the order dated 01/03/2019, he assessee has preferred the present appeal on the grounds mentioned above.

5. Heard both the sides, perused the material on record and gave our thoughtful consideration. The Ld. Counsel for the assessee vehemently submitted that the impugned order passed by CIT(A) it is against to the principals of natural justice, wherein the CIT(A) has dismissed the appeal without considering the assessee's grounds of Appeal and without giving opportunity of being heard to the assessee, the CIT(A) has passed the order without dealing with merits of the case.

6. Per contra, the Ld. DR relied on the orders of the Lower Authorities.

7. On going through the order of the CIT(A), it is found that the CIT(A) has dismissed the appeal on the ground that, the appellant has not vigilant and not participated in the appellate proceedings and has not given any finding on the merit of the case. In our opinion, the approach of the CIT(A) dismissing in the appeal requires interference. Accordingly, we allow Ground Nos. 1 to 3 of the Assessee for statistical purpose and direct the CIT(A) to decide the appeal on merit after giving opportunity of being heard to the assessee. Since, we

have restored the matter to the file of the CIT(A), ground Nos. 4 to 7 need not be decided by us.

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

Order pronounced in the Open Court on this 08th Day of July, 2022

**Sd/-
(B. R. R. KUMAR)
ACCOUNTANT MEMBER**

**Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER**

Dated: 08 /07/2022

R.N

Copy forwarded to :

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

ASSISTANT REGISTRAR
ITAT NEW DELHI