

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'B' NEW DELHI****BEFORE SHRI. SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SH. YOGESH KUMAR U.S., JUDICIAL MEMBER****I.T.A. No. 7352/DEL/2019 (A.Y 2013-14)**

Cobra Instalaciones Y Servicios SA SIPS JV 16A, Shivaji Marg, Moti Nagar, New Delh PAN No. AABAC4699K (APPELLANT)	Vs	ITO Ward-41(5) E-2, Block, Civic Centre, E-2 Block, New Delhi (RESPONDENT)
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Appellant by	None
Respondent by	Sh. S. L. Anuragi, Sr. DR

Date of Hearing	11.07.2022
Date of Pronouncement	18.07.2022

ORDER**PER YOGESH KUMAR US, JM**

This appeal is filed by the assessee against the order dated 07/12/2018 passed by the CIT(A)-14, New Delhi for Assessment Year 2013-14.

2. The grounds of appeal are as under:-

"1 That, the order passed by Ld. CIT(A)-14 confirming the disallowances made by the Ld. A.O. in the order u/s 143(3) is illegal, invalid and must be quashed.

2. That, the Ld. A.O. and the CIT(A) have grossly erred in disallowing the technical charges of Rs. 65,43,578 borne by the appellant wholly and exclusively for the purpose of its business.

3. That, the Ld. A.O. and the CIT(A) have grossly erred in

disallowing the bonafide expenditure of technical charges of Rs. 65,43,578 claimed by the appellant, even though the same expenditure paid after incorporation has been accepted and allowed by the A.O.

4. *That, the Ld. CIT(A) has grossly erred in facts and on law by ignoring the fact that the appellant had come into existence on 03.08.2011, and that as such the technical charges of Rs. 65,43,578 were paid by the appellant pursuant to its incorporation.*

5. *That, without prejudice, the A.O. has grossly erred in not allowing the loss claimed by the appellant in its return of income.*

6. *That, without prejudice, the Ld. CIT(A) has grossly erred in upholding the erroneous disallowance made by the A.O. which has resulted in an addition of Rs. 78,62,032 in the hands of the appellant.*

7. *That, without prejudice, the Ld. CIT(A) has grossly erred in not providing sufficient opportunity of being heard to the appellant, due to which the appellate order violates the principles of natural justice and must be quashed as it is illegal and void ab initio.*

8. *That, as the order of Ld. C.I.T.(A) on the above issues suffers from illegality and is devoid of any merit, the same should be quashed and the appellant be given such reliefs) as prayed for.*

9. *That, the appellant craves leave to amend, alter, modify, substitute, add to, abridge and/ or rescind any or all of the above grounds.*

3. None appeared for the assessee, the notices sent by the Tribunal to the registered address have returned with an endorsement "LEFT". By looking

into the records and considering the grounds raised in the appeal, we deem it fit to decide the appeal on hearing the Ld. DR.

4. We have heard the Ld. DR, verified the materials on record and gave our thoughtful consideration.

5. The assessee has challenged the impugned order of CIT(A) on several grounds and the Ground No. 7 is regarding not providing sufficient opportunity of being heard. On perusal of order of the CIT(A), it is found that the Ld.CIT(A) has dismissed the appeal on delay in latches and not decided the appeal on merit. The assessment order came to be passed and served on the assessee on 21/03/2016 and the Appeal before CIT(A) has been filed on 10/09/2016. The assessee has assigned the reason for condoning the delay was that, *'his daughter was hospitalized in the month of April to September, 2016 and the circumstances was very serious and beyond control of the assessee, therefore, assessee could not file the appeal in time'*. But the Ld. CIT(A) was of the opinion that the reason for delay in filing the Appeal claimed by the Assessee cannot be accepted to be a sufficient cause meeting the tests of Section 249 sub Section 3 of the Act. In our opinion, the Ld.CIT(A) should have taken liberal view by considering the reasons assigned by the assessee for condoning the delay. Therefore, in the interest of justice, we hereby condone the delay in filing the appeal before CIT(A) and set aside the matter to the file of CIT(A) to adjudicate the matter on merit in accordance with law.

6. In the result, Ground No. 7 of the assessee is allowed for statistical purpose. Since, we have remanded the matter to the file of CIT(A) to decide the matter on merit, all other grounds raised by the assessee requires no adjudication by us.

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

Order pronounced in the Open Court on this 18th Day of July , 2022

**Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

Dated: 18/07/2022
*R. Naheed **

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI