

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'E', NEW DELHI**

**Before Sh. Kul Bharat, Judicial Member**

**Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 7564/Del/2018 : Asstt. Year : 2013-14**

Next Brick Solutions Ltd., M-51, Saket, New Delhi-110017	Vs	Income Tax Officer, Ward-18(2), New Delhi-110001
(APPELLANT)		(RESPONDENT)
<b>PAN No. AABCN1152C</b>		

**Assessee by : Sh. Ved Jain, Adv. &  
Sh. Aman Garg, CA**

**Revenue by : Sh. Jeetender Chand, Sr. DR**

<b>Date of Hearing: 25.10 .2022</b>	<b>Date of Pronouncement: 31.10.2022</b>
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**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the assessee against the order of Id. CIT(A)-6, New Delhi dated 20.09.2018.

2. Following grounds have been raised by the assessee:

*"1. On the facts and circumstances of the case, the order passed by the learned CIT(A) is bad both in the eye of law and on facts.*

*2. (i) On the facts and circumstances of the case, the learned CIT(A) has grossly erred both on facts and in law in rejecting the application of the assessee filed under Rule 46A of the Income tax Rules.*

*(ii) That the said application filed under Rule 46A has been rejected despite the fact that the assessee was prevented by sufficient cause from producing the evidences which he was called upon to produce by the AO.*

3. *On the facts and circumstances of the case the learned CIT(A) has grossly erred both on facts and in law in rejecting the contention of the assessee that the order has been passed by the AO without affording adequate opportunity of being heard to the assessee.*

4. *On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the addition of Rs.3,47,89,700/- made by the AO on account of unsecured loan received during the year treating the same as unexplained credits under section 68 of the Income Tax Act.*

5. (i) *On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the addition made by the Ld. AO rejecting the explanation and evidences brought in record by the assessee to prove the identity and creditworthiness of the lenders as well as the genuineness of the transactions.*

(ii) *That the above said addition has been confirmed without pointing out any defect in the evidences filed by the assessee.*

6. (i) *On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the disallowance of depreciation on computer software amounting to Rs. 83,26,444/- claimed by the assessee.*

(ii) *That the said disallowance has been confirmed despite the fact that the asset purchased by the assessee was used for the purpose of the business activities of the assessee during the year.*

(iii) *That the disallowance has been confirmed ignoring the evidences filed by the assessee in this regard*

7. (i) *On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the estimated disallowance of 1% of contract expenses amounting to Rs. 20,30,143/- treating the same as unverifiable.*

*(ii) That the above said disallowance has been confirmed arbitrarily in an ad-hoc manner by indulging into surmises and conjectures.*

*(iii) That the above said disallowance has been confirmed rejecting the contention of the assessee that these expenses have been incurred exclusively for the purpose of the business."*

3. The assessee company was engaged in the business of Telecommunication & Technologies. The assessee filed return of income on 31.10.2013 declaring total income of Rs.27,80,690/. The assessment has been completed u/s 143(3) of the Income Tax Act, 1961 determining income at Rs.4,79,80,500/- by disallowing 1% of direct project expenses and making addition on account of unsecured loans. The Id. CIT(A) confirmed the addition made by the AO after rejecting the additional evidences sought to be filed under Rule 46A.

4. Before us, it was submitted that the assessee has got prime business at USA and both the Directors of the company Sh. Praveen Shah and Ms. Avanti Shah are Non-resident Indians. Due to business necessity, Ms. Avanti Shah who is in-charge of accounts and finance was in USA during the course of assessment proceedings and hence could not furnish requisite information during the course of proceedings. Hence, the assessee was prevented by sufficient cause from producing the evidence before the assessing authority and prayed that the additional evidences may be allowed to dispense justice.

5. We find that interest of the justice would be well served by giving an opportunity to the assessee to file the relevant submissions to prove their case. Hence, we direct the Id. CIT(A) to take cognizance of additional evidences as per Rule 46A of the Income Tax Rules, 1962 after ascertaining the

period of stay of Ms. Avanti Shah and adjudicate the issues on merit after affording an opportunity of being heard.

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

Order Pronounced in the Open Court on 31/10/2022.

Sd/-

**(Kul Bharat)**  
**Judicial Member**

**Dated: 31/10/2022**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**ASSISTANT REGISTRAR**