

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"A" BENCH, MUMBAI**

**BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER AND**  
**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA No.1168/Mum./2022**  
**(Assessment Year : 2012-13)**

Dy. Commissioner of Income Tax  
Circle-7(1)(1), Mumbai

..... Appellant

v/s

Loop Mobile Holdings India Ltd.  
Taikalwadi, Mahim, Mumbai 400 016  
PAN – AAACB8605K

.....Respondent

Assessee by : None  
Revenue by : Shri Salil Mishra

Date of Hearing – 09/11/2022

Date of Order – 10/11/2022

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The present appeal has been filed by the Revenue challenging the impugned order dated 24/03/2022, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*"learned CIT(A)"*], for the assessment year 2012-13.

2. In its appeal, the Revenue has raised following grounds:

*"1. On the facts and in the circumstances of the case and in law, the Learned CIT(A) erred in deleting the disallowance of expenditure on car*

*hire without appreciating the fact that the expenses pertained to assessee's group companies and not connected to its business.*

*2. On the facts and in the circumstances of the case and in law, the Learned CIT(A) erred in deleting the disallowance of expenditure on business support without appreciating the fact that the expenses pertained to assessee's group company, Loop Mobile India Ltd and not connected to its business.*

*3. On the facts and in the circumstances of the case and in law, the Learned CIT(A) erred in deleting the disallowance of Legal, professional and consultancy fee without appreciating the fact that the expenses pertained to assessee's group companies, Loop Mobile India Ltd and Loop Telecom Ltd. and not connected to its business.*

*4. The learned CIT(A)'s order is contrary in law and deserves to be set aside."*

3. When this appeal was called for hearing, neither anyone appeared on behalf of the assessee nor was any application seeking adjournment filed. From the perusal of the record, we find that on previous occasion also, no one appeared on behalf of the assessee. Therefore, we proceed to dispose off this appeal ex-parte qua the assessee after hearing the learned Departmental Representative ("*learned D.R.*") and on the basis of material available on record.

4. At the outset, the learned D.R. pointed out that against the very same impugned order, the assessee had also filed the appeal. The learned D.R. further submitted that the Co-ordinate Bench of the Tribunal in assessee's appeal in Loop Mobile Holding Pvt. Ltd. v/s DCIT, ITA no.1077/Mum./ 2022, for the assessment year 2013-14, vide order dated 25/08/2022, remanded the matter back to the learned CIT(A) for deciding afresh after providing adequate opportunity of being heard to the assessee. The learned D.R. also submitted that since partial relief has been granted by the learned CIT(A) on certain

additions made by the Assessing Officer, therefore, both assessee and Revenue had filed appeal against the impugned order.

5. Having heard the learned D.R. and perused the material available on record, we find that the Co-ordinate Bench of the Tribunal, vide order dated 25/08/2022, passed in assessee's appeal against the very same impugned order observed as under:-

*"5. Bare perusal of para 4 of the impugned order wherein chronology of dates fixed and notice issued to the assessee is given which apparently shows that on the date fixed i.e. 15.11.2021 assessee asked for two weeks time to file the fresh ground wise submissions and thereafter he resubmitted the paper book. Again despite numerous opportunities granted for 07.03.2022, 08.03.2022, 14.03.2022 and 15.03.2022 assessee failed to file the further submissions called for by the Ld. CIT(A) and consequently Ld. CIT(A) decided the appeal against the assessee.*

*6. We are of the considered view that when assessee at the very outset has come up with specific request to grant him the opportunity to file the ground wise submissions as called for by the Ld. CIT(A) but no opportunity has been granted to the assessee because subsequent opportunity with gap of 2 to 3 days was given which appears to have not been intimated to the assessee. To decide the issue once for all on merits and to stop the multiplicity of the proceedings adequate opportunity of being heard is required to be given to the assessee. So the impugned order passed by the Ld. CIT(A) is hereby set aside and remitted back to the Ld. CIT(A) to decide afresh after providing adequate opportunity of being heard to the assessee. Consequently, appeal filed by the assessee is hereby allowed for statistical purposes."*

6. As is evident from the perusal of the aforesaid order, the Co-ordinate Bench, after recording that the proper opportunity was not granted to the assessee to present its case, has set aside the impugned order and remanded back the matter to the learned CIT(A) to decide afresh after providing adequate opportunity of being heard to the assessee. Since some of the issues raised in assessee's appeal as well as in Revenue's appeal are common challenging partial relief granted by the learned CIT(A), therefore, we deem it

appropriate to remand the issues raised in Revenue's appeal also to the file of the learned CIT(A) for *de novo* adjudication. Needless to mention that no order shall be passed without affording reasonable opportunity of being heard to the parties. As a result, grounds raised by the Revenue are allowed for statistical purposes.

7. In the result, appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced in the open Court on 10/11/2022

**Sd/-**  
**S. RIFAUR RAHMAN**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SANDEEP SINGH KARHAIL**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 10/11/2022**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The CIT(A);*
- (4) *The CIT, Mumbai City concerned;*
- (5) *The DR, ITAT, Mumbai;*
- (6) *Guard file.*

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

Assistant Registrar  
ITAT, Mumbai