

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

**BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER AND**  
**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA no.918/Mum./2022**  
**(Assessment Year : 2013-14)**

Global Business Conexxtions Pvt. Ltd.  
77, Laxmi Nagar, Raisen Road  
Piplani, Bhopal 462 022  
PAN – AAECG0819J

..... Appellant

v/s

Commissioner of Income Tax  
Central Circle-5(3), Mumbai

.....Respondent

Assessee by : None  
Revenue by : Shri Ajay Singh

Date of Hearing – 08/09/2022

Date of Order – 05/12/2022

**ORDER**

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

The present appeal has been filed by the assessee challenging the impugned order dated 18/02/2022, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax(Appeals)-53, Mumbai [*"learned CIT(A)"*], for the assessment year 2013-14.

2. When the present appeal was called for hearing, neither anyone appeared on behalf of the assessee nor was any application seeking adjournment filed. Therefore, we proceed to dispose off the appeal ex-parte

qua the assessee after hearing the learned Departmental Representative (*"learned D.R."*) and based on material available on record.

3. The present appeal filed before us is delayed by 17 days. In this appeal, the impugned order dated 18/02/2022, was received by the assessee on the same date. Thus, as per the provisions of section 253(3) of the Act, the assessee was required to file the appeal within 60 days from the date of receipt of the order. However, the assessee filed the appeal, for the year under consideration, on 06/05/2022. We find that the Hon'ble Supreme Court, vide order dated 10/01/2022, passed in M.A. no.21 of 2022, in M.A. no.665 of 2021, in Suo-Motu Writ Petition (Civil) no.3 of 2020, directed that the period from 15/03/2020 till 28/02/2022, shall stand excluded for the purpose of limitation as may be prescribed under any general or special laws in respect of all judicial and quasi judicial proceedings. As part of the limitation period for filing the present appeal was falling within the aforesaid time period, in view of the order passed by the Hon'ble Supreme Court, the same shall be excluded till 28/02/2022. However, even after the exclusion of the aforesaid time period and upon computation of the limitation period thereafter, the appeal is still delayed by almost 7 days. Considering the period of delay, the delay is condoned and the appeal was heard on merits.

4. In this appeal, the assessee has raised the following grounds:

*"1(a) On facts and circumstances of the case; the assessment order passed U/s 143(3) r.w.s 144C of the Act is void ab initio, invalid, bad in law and grossly in violation of principles of natural justice.*

*(b) The Ld. AO erred in facts and law by not issuing a show cause notice and not providing adequate opportunity of being heard.*

*2.(a) The Id. CIT(A) erred in facts and law in confirming the addition of Rs 18,60,139/- being 20% of the amount of addition of Rs 93,00,697/- on account of clearing & forwarding expenses and festival expenses.*

*(b) The Id. CIT(A) erred in facts and law in confirming the addition of Rs. 11,53,720/- being 10% of the amount of addition of Rs 1,15,37,195/-on account of transportation, general, travelling and telephone expenses.*

*(c) The Id. CIT(A) also failed to appreciate that the appellant had explicitly denied accepting the alleged discrepancy and agreeing to the proposed lumpsum addition.*

*3. Each of the above Grounds of Appeals an independent and without prejudice to one another.*

*4. Your appellant craves leave to add, amend, after or drop all or any of the above grounds of appeal."*

5. The issue arising in ground No. 1, raised in assessee's appeal, is pertaining the non issuance of show cause notice.

6. The brief facts of the case as emanating from the record are: The assessee is engaged in the business of trading in agricultural commodities such as soybean meal, rapeseed meal, sugar, rice, maize etc. manufactured by its related parties as well as independent parties. For the year under consideration, the assessee filed its return of income on 29/09/2013 declaring a total income of Rs. 2,90,16,980. As noted in the assessment order, the case was selected for scrutiny, and accordingly notice under section 143(2) of the Act was issued on 05/09/2014, which was served on the assessee by speed post. Further, it has been noted that notice under section 142(1) of the Act was issued on 02/07/2015, which was duly served upon the assessee. In the assessment order, it has further been noted that another notice under section 129 of the Act was issued on 02/11/2016 due to a change in the incumbent, and a fresh opportunity of being heard was provided. The Assessing Officer ('AO') vide order dated 22/12/2016 passed under section 144C read with

section 143(3) of the Act computed the total income of the assessee at Rs. 3,20,30,839, inter-alia, after making certain additions. From the assessment order, we find that the AO made the addition after verification of the vouchers in respect of the expenditure claimed by the assessee. Thus, from the record, it is evident that the AO has not only issued statutory notices under section 143(2)/142(1) of the Act but has also examined the vouchers, which can only be submitted by the assessee during the assessment proceedings. Therefore, in view of the above, we find no merits in ground No. 1 raised by the assessee that no show cause notice was issued and proper opportunity of being heard was not provided, in absence of any supporting material being available on record. As a result, ground No. 1 raised in assessee's appeal is dismissed.

7. The issue arising in ground No.2(a), raised in assessee's appeal, is pertaining to the addition of Rs. 18,60,129 being 20% of clearing and forwarding expenses and festival expenses claimed by the assessee.

8. The brief facts of the case as emanating from the record are: During the assessment proceedings, from the perusal of the profit and loss account, it was observed that the assessee has debited the following expenses:

<i>Sl. No.</i>	<i>Expenditure head</i>	<i>Amount (Rs.)</i>
<i>1.</i>	<i>Clearing and Forwarding</i>	<i>82,86,927</i>
<i>2.</i>	<i>Festival expenses</i>	<i>10,13,770</i>
	<i>Total</i>	<i>93,00,697</i>

9. Upon verification of vouchers, it was further noticed that some of the expenses debited under the above heads are not verifiable with the vouchers of parties to whom the payments were claimed to have been made. It was

further observed that in the preceding year, the assessee has claimed clearing and forwarding expenses at Rs. 2,85,000 but during the year under consideration, the same is Rs. 82,86,927, which is nearly 30 times more as compared to the previous year. Similarly, the festival expenses in the previous year were Rs. 52,004, which is 20 times i.e. Rs. 10,13,770 during the year under consideration. Accordingly, the AO vide assessment order disallowed the expenditure of Rs. 18,60,139 being 20% of the expenditure claimed under the aforesaid head.

10. In appellate proceedings before the learned CIT(A), as noted in the impugned order on page 4-5, the assessee submitted that it was incorporated on 14/01/2011, and owing to the same the expenses ought to increase in the future years. The assessee further submitted that its turnover has increased nearly 5 times as compared to the previous year and for that reason, the expenses of the assessee are also bound to increase for the year under consideration in support of its submission, the assessee placed reliance upon ledgers, bank statements along with vouchers and financial statements. It was further submitted that all the payments were made through banking channels and deposited to all the vendors' bank accounts.

11. The learned CIT(A) vide impugned order dismissed the appeal filed by the assessee on this issue and held that the assessee has claimed that its turnover has increased by 5 times, whereas the clearing and forwarding expenses and festival expenses have increased by 20 to 30% and this unusual increase in the expenses has not been satisfactorily explained by the assessee. The learned CIT(A) further held that the onus is on the assessee to justify the

expenditure with supporting evidence. Being aggrieved, the assessee is in appeal before us.

12. We have considered the submissions of the learned DR and perused the material available on record. We find that the AO found some of the expenses debited under the head, namely, clearing and forwarding expenses and festival expenses as not verifiable with the vouchers of parties to whom payments were claimed to have been made. We further find that the AO found the expenses to be 20 to 30 times more as compared to similar expenses incurred in the preceding year. In view of the above, the AO found the claim of expenses to be unreasonable and disallowed 20% of the expenses claimed by the assessee under the aforesaid heads. In appeal, learned CIT(A) upheld the disallowance on the basis that the onus to justify the expenditure with supporting evidence has not been discharged by the assessee. Thus, it is evident from the record that the lower authorities have disallowed the expenditure merely on *ad hoc* basis, without restricting the disallowance to the extent to which the expenditure was found not verifiable with the vouchers of parties to whom the payments were claimed to have been made. Further, the AO has also not brought any comparative case on record to prove that the expenses are unreasonable. Therefore, we deem it appropriate to remand this issue to the file of the AO for *de novo* adjudication after necessary verification of all the details regarding the expenditure claimed by the assessee under the aforesaid heads. Since this issue has been remanded to the AO, the assessee shall be at liberty to file all the details/vouchers to justify its claim of expenditure. As a result, ground No. 2(a) is allowed for statistical purposes.

13. The issue arising in ground No. 2(b), raised in assessee's appeal, is pertaining to the addition of Rs. 11,53,720 being 10% of transportation, general, travelling, and telephone expenses.

14. The brief facts of the case as emanating from the record are: During the assessment proceedings, from the perusal of the profit and loss account it was observed that the assessee has debited transportation and freight expenses of Rs. 20,44,681, general expenses of Rs. 10,88,074, travelling expenses of Rs. 65,63,830 and telephone expenses of Rs. 18,40,610 totalling to Rs. 11,537,195. In absence of details that these expenses have been incurred fully and exclusively for business purposes, the AO vide assessment order after noting that some of the vouchers are self-made, made an addition of Rs. 11,53,720 being 10% of aforesaid expenses.

15. The learned CIT(A) vide impugned order dismissed the appeal filed by the assessee on this issue and upheld the disallowance to an extent of 10% being made by the AO. Being aggrieved, the assessee is in appeal before us.

16. Having considered the submissions of the learned DR and perused the material available on record, we are of the considered opinion that the onus to prove that expenditures have been incurred wholly and exclusively for the purpose of the business or profession is on the assessee. In the present case, the assessee has debited expenses in the nature of transportation and freight, general expenses, travelling expenses, and telephone expenses in the profit and loss account. The nature of expenses is such that some element of personal use cannot be ruled out. We further find that the Revenue has also

not brought anything on record to justify the disallowance of 10% of aforesaid expenses. Therefore, in light of the peculiar facts of the present case, we deem it appropriate to restrict the disallowance to 5% of the aforesaid expenses. As a result, ground No. 2(b) raised in assessee's appeal is partly allowed.

17. Ground No. 2(c) of the Act needs no separate adjudication, in view of our aforesaid findings.

18. In the result, the appeal by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 05/12/2022

**Sd/-**  
**PRASHANT MAHARISHI**  
**ACCOUNTANT MEMBER**

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

**MUMBAI, DATED: 05/12/2022**

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