

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
AND  
SHRI O.P. KANT, ACCOUNTANT MEMBER**

**ITA No.267/Del/2020  
Assessment Year:2013-14**

<b>Kapil Kohli D-214, Ashok Vihar phase-I, Delhi-110052 PAN No.AHJPK2387C</b>	<b>Vs.</b>	<b>ITO Ward- 34(3) New Delhi</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Appellant by</b>	<b>Sh. Susheel Kumar Gupta, CA</b>
<b>Respondent by</b>	<b>Modh. Gayasuddin Ansari, CIT (DR)</b>

Date of hearing	15.03.2023
Date of pronouncement	15.03.2023

**ORDER**

**PER O.P. KANT, AM:**

This appeal by the assessee is directed against order dated 31/10/2019 passed by the Learned Commissioner of income-tax-12, New Delhi [in short the "Ld. CIT(A)"], for A.Y.2013-14, raising following grounds:

1. *Ld. CIT(A) has not provided sufficient opportunity of being heard to the assessee, which is against the principle of natural justice.*
2. *Ld. CIT(A) has erred in forming his considered opinion that appellant failed to submit necessary explanation with regard to the claim of deductions, during the assessment*

*proceedings.*

3. *Ld. CIT(A) has erred in holding that appellant has not been able to substantiate his ground of appeal, before him, whereas assessee was not given sufficient opportunity of being heard.*

4. *That on the facts and in the circumstances of the case, the Ld. CIT(A) erred both in law and on fact in confirming addition of Rs. 30,11,798/- on account of interest paid to Religare Finvest Limited, on the ground that assessee could not prove that loan taken was utilized wholly and exclusively for the business purpose as required u/s 36 (l)(iii) of the IT Act, without appreciating the fact that direct nexus in respect of loan taken in financial year 2010-2011 cannot be established with business transactions of financial year 2012-2013. (Tax Effect of Rs. 9,30,646/-)*

5. *That on the facts and in the circumstances of the case, the Ld. CIT(A) erred both in law and on fact in confirming disallowance of Rs. 1,11,092/- under section 14A of the Act, in the absence of any dividend income. (Tax Effect of Rs. 34,328/-)*

6. *That on the facts and in the circumstances of the case, the Ld. CIT(A) erred both in law and on fact in confirming disallowance of claim of loss of Rs. 13,45,545/- on account of difference of exchange without appreciating the fact that loss was incurred due to lesser realization of exports sale proceeds due to exchange rate fluctuation and reinstatement of foreign assets in accordance with Accounting Standard-11 issued by Institute of chartered Accountants of India. (Tax Effect of Rs.4,15,774/-)*

7. *I pray that the addition/ disallowance made in respect of assessed income for the AY 2013-14 be deleted.*

2. Briefly stated the facts of the case are that the Assessing Officer passed the impugned assessment order dated 09.10.2018 in compliance to the order passed by the Learned Principal Commissioner of Income-Tax u/s. 263 of Income-tax Act, 1961 (in short “the Act”).

3. Aggrieved, the assessee filed an appeal before the CIT(A). However, due to non compliance on the part of the assessee, the appeal was dismissed as *exparte*.

4. Aggrieved, the assessee is before the Tribunal by way of raising grounds as reproduced as above.

5. Before us the Learned Counsel of the assessee submitted that the Authorized Representative of the assessee duly filed an application for adjournment of hearing before the Ld. CIT(A) however, the Learned CIT(A) rejected the request and decided the appeal exparte without taking into consideration the submission of the assessee, therefore, order of the Learned CIT(A) might be set aside and matter be restored back to the file for deciding afresh after taking into consideration the submission of the assessee. On the contrary the Learned Departmental Representative opposed and submitted that the assessee was provided more than 4 opportunities however, no compliance was made and, therefore, the present appeal should be decided on merit.

6. We have heard rival submission and perused the relevant material on record. We find that the Learned CIT(A) has reproduced the details of the notices issued and response on behalf of the assessee. It is seen from the table reproduced in para-3 of the impugned order that on two occasions, the Learned CIT(A) adjourned the date of the hearing on the telephonic request of the authorized representative of the assessee. On 3<sup>rd</sup> occasion authorized representative of the assessee filed a letter for adjournment. On one occasion i.e. 01.04.2019 no compliance was made by the assessee. Thereafter, further date was given to the assessee on 30.10.2019, for which the authorised representative of the assessee applied for adjournment. The

Learned CIT(A) rejected the adjournment request of the assessee and passed this order exparte qua the assessee.

8. In our opinion this is not a case of absolute non compliance on the part of the assessee. The Learned Counsel for the assessee before us submitted that due to personal difficulty, the authorized representative could not appear before the Learned CIT(A). The Learned Counsel before us gave an undertaking that due compliance shall be made before the Learned CIT(A), if matter is restored back to him. In the facts and circumstances of the case we feel it appropriate to restore this matter back to the file of the Learned CIT(A) for deciding afresh after taking into consideration submission of the assessee. The grounds of the appeal of the assessee are accordingly allowed for statistical purpose.

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

***Order pronounced in the open court on 15.03.2023.***

***Sd/-***  
**(KUL BHARAT)**  
**JUDICIAL MEMBER**

***Sd/-***  
**(O.P. KANT)**  
**ACCOUNTANT MEMBER**

Dated:15.03.2023

\*NEHA\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi