

2. The grievances of the assessee read as under:

“1. That the CIT(A) erred in passing the Order dated 06.01.2020 without giving proper opportunity to the Appellant and rejecting the application for adjournment without any justification or reason and therefore, Order has been passed without following the Principle of Natural Justice and the same deserves to be quashed.

2. That the CIT(A) erred in upholding the disallowance on account of Interest Cost of Rs.9,91,36,113 made by the AO on notional basis, without considering the full facts and appreciating the legal position in this regard.

3. That the CIT(A) also erred in upholding the notional disallowance /addition made by the AO of Rs.36,53,350 being interest receivable on loan given to an Employee adopting rate @ 14% without appreciating that such loan was given to an Employee and interest thereon was duly charged @ 9.5%.

4. That the appellant crave leave to add and modify any of the grounds of the appeal at any time hereinafter before the date of hearing.”

3. A perusal of our record shows that the appeal has been filed after expiry of the period of limitation. The assessee has filed an application for condonation of delay supported by an affidavit. The relevant part of the application reads as under:

“5. That the Applicant/Appellant Company had filed appeal in Form No. 35 before CIT(A)-3, New Delhi on 24.01.2019 giving address of the Applicant/Appellant Company as G-16, Marina Arcade, Connaught Circus, New Delhi and email id was given of one employee of the company, namely, Shri Krishan Kumar Sachdeva i.e. k.sachdeva@rhcholding.com, who was responsible for handling income tax matters at that time.

6. That the address given in order passed by CIT(A) is 54, Janpath. Connaught Place, New Delhi-110001 which was not the address of the company as per Form No.35 submitted before CIT(A) and, therefore, if order was sent by the office of CIT(A) at the abovementioned wrong address was never received by the Company.

7. That as per the information available on website the order appears to have been sent through e-mail at email address ‘k.sachdeva@rhcholdng.com’;. As mentioned above, the aforesaid email id was of an employee Mr. K.K. Sachdeva who was working with the company and was looking after income tax matters. He however, left the service of company w.e.f. 13.07.2019 and therefore, in January,2020, when the order was passed by CIT(A) above email id was not existing since same was deleted immediately on leaving the service by Mr. K.K. Sachdeva as per the policy regularly followed by the company and, therefore, order was also not received by the company on email.

8. That in view of above facts, copy of the order passed by CIT(A) was never received by the company either through post or through email and it came to know of the order only on 20.10.2021 through the Assessing Officer as stated above and, thereafter immediate appellate order was downloaded on 21.10.2021 from e-filing portal of the company and appeal was filed before Hon’ble ITAT on 29.10.2021 against the above-stated order of CIT(A).

9. That the Applicant/Appellant company could also not enquire about the appeal status because of COVID 19 situation office of the Applicant/Appellant company remained closed for long time and thereafter it was under the impression that appeal will be decided in faceless manner pursuant to amendment in law made vide Finance Act, 2020.”

4. We have given thoughtful consideration to the aforestated contents and find force in the contention of the ld. counsel for the assessee. The assessee was prevented by a reasonable and sufficient cause for not filing the appeal within the period of limitation. Hence the delay is condoned.

5. During the course of his arguments, the ld. counsel for the assessee pleaded for restoration of the appeal to the file of the ld. CIT(A) so that the assessee can furnish necessary evidences alongwith detailed submissions in support of his grievances.

6. Per contra, the ld. DR strongly objected and stated that the ld. CIT(A) had given sufficient opportunity and the assessee did not bother to attend the appellate proceedings. Therefore, the request of the assessee should be denied.

7. We have carefully considered the orders of the first appellate authority. The first date of hearing before the first appellate authority was 19.09.2019, on which date, the assessee took adjournment as it was busy in compiling /preparing Income tax returns.

8. Second date of hearing was on 16.10.2019. On that date again, the assessee took adjournment for similar reasons. Third date of hearing adjournment was sought by the assessee asking for a date in the last week of November as there was some ceremony in the counsel's place.

9. Appeal was adjourned to 21.11.2019 and because of the ceremonial function, the ld. counsel for the assessee could not attend the appellate proceedings and the ld. CIT(A) passed an ex-parte order.

10. Considering the facts of the case in totality, we are of the considered view that one more opportunity given to the assessee would not prejudice the Revenue, but in fact, further the cause of justice. Therefore, in the interest of justice and fair play, we deem it fit to restore the issues to the file of the ld. CIT(A).

11. The assessee is directed to attend the appellate proceedings as and when called for and present its case and the ld. CIT(A) is directed to decide the issue afresh after affording reasonable and adequate opportunity of being heard to the assessee.

12. In the result, the appeal of the assessee in ITA No. 1587/DEL/2021 is allowed for statistical purposes.

The order is pronounced in the open court on 14.03.2023.

Sd/-

**[ANUBHAV SHARMA]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 14th March, 2023.

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	