

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH “C”: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
AND  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

**ITA No. 2124/DEL/2019  
[Assessment Year: 2014-15]**

Howe Robinson Shipping India Pvt. Ltd., A Block, Enkay Centre, Udyog Vihar, Phase-V, Gurugram-122016. PAN- AACCC3050D	<u>Vs</u>	DCIT, Circle 11(1), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee represented by</b>	Sh. Nitin Goyal, CA	
<b>Department represented by</b>	Sh. Anuj Garg, Sr. DR	
<b>Date of hearing</b>	17.04.2023	
<b>Date of pronouncement</b>	17.04.2023	

**ORDER**

**PER KUL BHARAT, JM:**

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals)-22, New Delhi, dated 30.12.2018, pertaining to the assessment year 2014-15. The assessee has raised following grounds of appeal:

*“1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making an addition of Rs.21,52,806/- out of bonus of Rs. ,70,86,527/- paid to its managing director, considering it as a “capital expenditure”. The similar issue has already been decided by CIT(A) in earlier year in favour of the assessee.*

2. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in disallowing the late deposit of employee's contribution of PF & ESI amount to Rs. 49,889, ignoring the fact that the same has been deposited before due date of filing of tax return.*

3. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in disallowing the interest of Rs. 9,64,682 paid for delayed payment of service tax, ignoring the fact that the said interest is compensatory in nature and not a disallowable expense u/s 37 of the Act.*

4. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in disallowing the expenses of Rs. 16,20,666 considering the same as "prior period" and ignoring the assessee's submission that liability was crystallized in the relevant previous year itself and assessee has itself reversed in the same in previous year 2014-15 following RBI's direction dated 20<sup>th</sup> Aug 2015.*

5. *That the appellant craves to leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other."*

2. Facts giving rise to the present appeal are that for A.Y. 2014-15 the assessee filed its return of income on 28.11.2014 declaring total income at Rs. 93,53,640/-. The case was selected for scrutiny assessment and vide order dated 30.11.2016 passed u/s 143(3) of the Income-tax Act, 1961 (the "Act"), the Assessing Officer completed the assessment at an income of Rs. 1,41,41,683/- by making various additions to the income returned by the assessee. Aggrieved against it the assessee preferred appeal before the learned CIT(Appeals), who vide impugned order

dismissed the assessee's appeal. Aggrieved against it the assessee is in appeal before this Tribunal.

3. Learned counsel for the assessee at the outset submitted that the learned CIT(Appeals) has dismissed the assessee's appeal ex parte, without going into the merits of the case. He prayed that the order of the learned CIT(Appeals) may be set aside for decision afresh on the merits of the case after affording reasonable opportunity to the assessee of being heard.

4. On the other hand, learned DR opposed the submissions made on behalf of the assessee and submitted that the assessee has been negligent in pursuing its case before the learned CIT(Appeals) despite having been given sufficient opportunity to represent its case.

5. We have heard rival submissions of the parties. The learned CIT(Appeals) has dismissed the assessee's appeal, inter alia, by observing as under:

*“4.1 On the basis of above discussion it can be concluded that the appellant was given ample opportunity to represent his case. However, there was no compliance from appellant side. Therefore, it is presumed that the appellant is not serious to pursue the appeal. Hence the appeal is dismissed.”*

6. Considering the fact that the learned CIT(Appeals) has decided the appeal ex parte, qua the assessee, without going into the merits of the issues raised by the

assessee in the grounds of appeal as also to sub serve the interest of natural justice we are constrained to set aside the impugned order and direct the learned CIT(Appeals) to decide the appeal of the assessee on merit by affording reasonable opportunity of being heard to the assessee. We order accordingly.

7. In the result, assessee's appeal stands allowed for statistical purposes only.

Order pronounced in open court during the course of hearing on 17<sup>th</sup> April, 2023.

**Sd/-**  
**(PRADIP KUMAR KEDIA)**  
**ACCOUNTANT MEMBER**

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

\*MP\*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI