

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "C", NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER,
AND
SHRI YOGESH KUMAR US, JUDICIAL MEMBER

ITA NO. 3069/Del/2023		
A.YR. : 2018-19		
IRCON PB TOLLWAY LIMITED, C-4, DISTRICT CENTRE, SAKET, NEW DELHI – 17 (PAN: AADC16401R) (APPELLANT)	VS.	DCIT, CIRCLE 10(1), NEW DELHI (RESPONDENT)

Appellant by : Shri Somil Agarwal, Adv. &
Shri Shrey Jain, Adv.
Respondent by : Shri Dayainder Singh Sidhu,
CIT-DR

Date of hearing : 12.12.2024

Date of pronouncement : 16.12.2024

ORDER

PER SHAMIM YAHYA, AM :

The Assessee has filed the instant Appeal against the Order of the Ld. CIT(Appeal)/NFAC, Delhi dated 14.9.2023, relating to assessment year 2018-19 on the following grounds:-

1. That having regard to the facts and circumstances of the case. La. CIT(A) has erred in law and on facts in dismissing the appeal of assessee on the ground of delay in filing the appeal u/s 249(2) (wrongly mentioned 249(4)) and that too without providing the opportunity of hearing in this regard which is in violation of principles of natural justice.

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. A.O in making addition of Rs.277,50,99,630/- on the basis of alleged Tax Audit Report which was revised and has further erred in not considering/appreciating the revised Tax Audit Report and that too without observing the principles of natural justice and without appreciating/considering the submissions of the assessee company.

3. That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. A.O. in making addition of Rs.277,50,99,630/- - on the basis of alleged Tax Audit Report. is bad in law and against the facts and circumstances of the case.

4. That having regard to the facts and circumstances of the case, Ld. CIT(A) ought to have considered the revised Tax Audit Report filed by the assessee company while passing the impugned order which is in violation of principles of natural justice.

5. 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. A.O in making addition of Rs.4,15,576/- being the amount of as per ICDS, led to double addition as the same has already been added in the computation of income.

6. That having regard to the facts and circumstances of the case. Ld. CHA) has erred in law and on facts in confirming the action of Ld. A.O in making disallowance of Rs.3,36,475/- being personal expenditure in CSR.

7. That having regard to the facts and circumstances of the case. Ld. CIT(A) ought to have deleted the above aggregate adjustment/addition/disallowance of Rs.277,55,15,206/- as the same cannot be made in the intimation u/s 143(1) passed by CPC as the jurisdiction was not validly assumed as per law.

8. That having regard to the facts and circumstances of the case, Ld. CIT(A) ought to have deleted the above adjustment/addition/disallowance made u/s 143(1) which could not have been made in law.

9. That having regard to the facts and circumstances of the case. Ld. CIT(A) has erred in law and on facts in not reversing the action of Ld. AO in charging interest u/s 234A, 234B and 234C of Income Tax Act, 1961.

10. That the appellant craves the 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. The brief facts of the case are that the Assessee is wholly owned subsidiary of a Government company namely Ircon international Ltd. Assessee filed its income tax return declaring taxable income at Rs. 1,04,21,820/- after adjusting carry forward loss of Rs. 25,87,849/- and AO completed the assessment at Rs. 2,78,59,37,020/- by making addition of Rs. 2,77,55,15,203/- in the declared income for Rs. 1,04,21,820/-. Upon assessee's appeal, Ld. CIT(A) dismissed the appeal of the assessee by noting that there is a delay of 3 months and 19 days and no application for condonation of delay has been filed. Ld. CIT(A) also touched with the merits of the case.

3. Against the order of the Ld. CIT(A), assessee is in appeal before us.

4. We have heard both the parties and perused the records. Ld. AR for the assessee pleaded that there was no actual delay, as it was the Covid period and the period of filing of appeal was duly extended by the Hon'ble Supreme Court orders. Hence, he prayed that an opportunity may be given to the assessee to canvass its case before the Ld. CIT(A) by remitting back the issues in dispute to the file of the CIT(A) for fresh adjudication. Ld. DR did not have any objection to this proposition. Therefore, in view of the aforesaid facts and circumstances of the case and in the interest of justice, the issues in dispute are remitted back to the file of the Ld. CIT(A) with the directions to decide the same afresh, after giving adequate opportunity of being heard to the assessee. We hold and direct

accordingly. In the interest of justice, we also direct the Ld. CIT(A) to condone the delay in dispute and pass a speaking order.

5. In the result, the Assessee's appeal is allowed for statistical purposes.

Order pronounced on 16/12/2024.

SD/-

(YOGESH KUMAR US)
JUDICIAL MEMBER

SD/-

(SHAMIM YAHYA)
ACCOUNTANT MEMBER

SRBHATNAGAR

Copy forwarded to:-

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

Assistant Registrar