

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH “SMC”, MUMBAI**

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER
AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

ITA No.97/M/2022

Assessment Year: 2018-19

M/s. Navjivan Synthetics Pvt. Ltd., 158/164, Laxmi Bhavan, Kalbadevi Road, Kalbadevi, Mumbai- 400 002 PAN: AAACN137OK	Vs.	CIT(A), NFAC Delhi-110011
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Shri Ashish Kumar, D.R.

Date of Hearing : 06 . 07 . 2022
Date of Pronouncement : 04 . 08 . 2022

O R D E R

Per : Kuldip Singh, Judicial Member:

The appellant, M/s. Navjivan Synthetics Pvt. Ltd. (hereinafter referred to as ‘the assessee’) by filing the present appeal, sought to set aside the impugned order dated 14.12.2021 passed by the National Faceless Appeal Centre(NFAC) [Commissioner of Income Tax (Appeals), Delhi] (hereinafter referred to as CIT(A)) qua the assessment year 2018-19 on the grounds inter alia that:-

“1. On the facts and in law the Ld. Commissioner of Income (Appeals) National Faceless Appeal Center erred in passing the order u/s 250 on the basis of demand raised of Rs.12,37,320/- and refunds issued of Rs.68,33,911/- to Appellant in 143 (l)(a) order

and in 154 order respectively and not on sustentative Grounds of Appeal raised by the Appellant.

2. On the facts and in law the Ld. Commissioner of Income (Appeals) National Faceless Appeal Center erred in not adjudicating Grounds no 1 of the Appeal filed i.e. computing business income at Rs 30,29,381/- instead of the business loss of Rs.28,17,853/- returned by the appellant. As such Aggregate addition of Rs.58,47,234/- may please be deleted.

3. On the facts and in law the Ld. Commissioner of Income (Appeals) National Faceless Appeal Center erred in not adjudicating Ground no 2 of the Appeal filed i.e. in respect of addition of Rs.56,76,870 i.e. amount shown in Income tax return Rs.71,61,932 and amount mentioned in Form Annexure 3CD Rs.14,85,062 (71,61,832 - 14,85,061) on account of "inconsistency in amount disallowed under section 43B in any preceding previous year but Allowable during the year."

4. On the facts and in law the Ld. Commissioner of Income (Appeals) National Faceless Appeal Center erred in not adjudicating Ground no 3 of the Appeal filed in respect of addition of Rs.1,70,365 on account of sum received from employees as contribution of PF and ESIS to the extent of amount not credited to employees account on or before due date u /s. 36(1)(va)."

2. Briefly stated facts necessary for adjudication of the controversy at hand are : the assessee, a private limited company is into manufacturing of textiles using handlooms and running of process house. During the processing of return of income filed by the assessee for the year under assessment, the Assessing Officer (AO)-Central Processing Centre (CPC), Bangalore computed business income of the assessee at Rs.30,29,381/- against the business loss of Rs.28,17,853/- shown by the assessee and thereby made an addition of Rs.58,47,234/-. AO also disallowed an amount of Rs.14,85,062/- under section 43B of the Income Tax Act, 1961 (for short 'the Act').

3. Assessee carried the matter before the Ld. CIT(A) by way of filing appeal who has dismissed the same for statistical purposes.

Feeling aggrieved with the impugned order assessee has come up before the Tribunal by way of filing present appeal.

4. Notice sent for the service of the assessee for 31.05.2022 through RPAD and thereafter for 06.07.2022 not received back served or unserved and presumed to have been served upon the assessee but none appeared. So the Bench proceeded to decide the case on the basis of material available on record with the assistance of the Ld. D.R. for the Revenue.

5. We have heard the Ld. Departmental Representative for the Revenue, perused the orders passed by the Ld. Lower Revenue Authorities and documents available on record in the light of the facts and circumstances of the case and case law relied upon.

6. Ld. CIT(A) decided the appeal filed by the assessee by returning following findings:

“For Assessment Year 2018-19 , the record available with the department, in it's database shown the following -

<i>S.No.</i>	<i>Section under which order has been passed</i>	<i>Date</i>	<i>Demand</i>
<i>1.</i>	<i>143(1)(a)</i>	<i>15.11.2019</i>	<i>1237320/-</i>
<i>2.</i>	<i>154</i>	<i>25/02/2020</i>	<i>-6833911/-</i>

The present appeal has been instituted against the order u/s 143(1)(a) mentioned at the S.no. 1 of the table.

As per the statement of the facts and grounds of appeal, the present appeal has been instituted on account of incorrect adoption of gross total income of the Assessee for the present Assessment Year at Rs.3235881/- in place of the correct gross total income of Rs.Nil in order u/s 143(1)(a) dated 15.11.2019. From the record it is apparent that order u/s 154 was passed on 25.02.2020, as mentioned at S. No. 2 of the above table, where the demand was reduced to Nil and refund was issued. As a result, there is no surviving cause of action for the present appeal.

Since the grievance of the assessee has already been addressed in favor of assessee, no separate order on the grounds of appeal is considered necessary.

For Statistical purpose, the appeal is dismissed.”

7. Bare perusal of the findings returned by Ld. CIT(A) goes to prove that the Ld. CIT(A) has not decided three substantive grounds raised by the assessee rather proceeded to throttle the entire appeal on the premise that in order passed under section 154 of the Act dated 25.02.2020 demand was reduced to nil and refund of Rs.70,53,620/- has been issued and as such there is no surviving cause of action in the present appeal. Whereas assessee has filed the present appeal on 31.05.2022 before the Tribunal by raising specific grounds even by considering the order passed by the AO under section 154 of the Act and raised specific grounds and Ld. CIT(A) has not decided the same on merits.

8. In these circumstances, we are of the considered view that when assessee has come up with substantive ground by filing appeal before the Ld. CIT(A) each and every ground needs to be adjudicated upon on merits by providing an opportunity of being heard to the assessee. So the present appeal is set aside to the Ld. CIT(A) to decide afresh. Consequently, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 04.08.2022.

**Sd/-
(GAGAN GOYAL)
ACCOUNTANT MEMBER**

**Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

Mumbai, Dated: 04.08.2022.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.