

आयकर अपीलिय अ धकरण “ए” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, PUNE

**BEFORE SHRI S.S.GODARA, JM
AND SHRI DR. DIPAK P. RIPOTE, AM**

आयकर अपील सं. / **ITA No.405/PUN/2020**
निर्धारण वर्ष / Assessment Year : 2016-17

Netsurf Entertainment LLP,
SR No. 107, Plot No.2,
Emirus Bldg., 5th Floor,
Baner ,
Pune – 411 045

PAN : AAIFN8191K

.....अपीलार्थी / Appellant

बनाम / V/s.

ITO, Wd -2(2), Pune

.....प्रत्यर्थी / Respondent

Assessee by : None
Revenue by : Shri Arvind Desai

सुनवाई की तारीख / Date of Hearing : 20.06.2022
घोषणा की तारीख / Date of Pronouncement : 11.08.2022

आदेश / ORDER

PER S. S. GODARA, JM :

1. This assessee’s appeal for A.Y. 2016-17 is directed against the CIT(A)-3, Pune’s order dated 22/01/2020 passed in case No. PN/CIT(A)-3/ITO WD.2(2)/200/18-19 involving proceeding u/s. 143(3) of the Income Tax Act, 1961; in short "the Act".

Case called twice. None appears at assessee’s behest. It is accordingly proceeded ex-parte.

2. The assessee pleads the following substantive grounds in the instant appeal.

- “1. On the basis of facts and in the circumstances of the case, the assessee prays to condone the delay of 75 days in filing the present appeal. The appeal fees were paid within 60 days, but the physical submission of Appeal Memorandum could not be filed due lockdown on account of Covid-19.
2. On the basis of facts and in the circumstances of the case and as per law, the Commissioner of Income Tax, (Appeals)- 3, Pune, is not justified in confirming the addition of Rs 66,83,383/- on account of alleged discrepancy between the amounts on which TDS deducted as shown in 26AS form on the web site of Income Tax department and turnover / income shown by the Appellant in its audited annual accounts.
3. On the basis of facts and in the circumstances of the case and as per law, the lower authorities have erred in considering receipts as per AS26 as Gross Receipts of the assessee thereby ignoring the method of accounting followed by the assessee. Such addition is arbitrary and without any basis.
4. On the basis of facts and in the circumstances of the case and as per law, the lower authorities have erred in law as well as in fact in making the addition of Rs. 66,83,383/- being "gross receipt" as such received by the appellant and since only profit element in the same can be subjected to tax, the entire addition of gross receipts is contrary to law and without jurisdiction. The addition is uncalled for hence needs to be deleted.
5. The appellant craves leave to add, alter, omit or substitute any of the grounds at the time of hearing of the appeal.”

3. Mr. Desai could hardly rebut the clinching fact at the outset that the instant appeal doesn't require any detailed adjudication on our part since assessee's sole substantive grievance herein i.e. correctness of both the learned lower authorities action adding the amount in issue of Rs.66,83,383/- on account of difference between TDS figures shown in form 26AS and its book; requires more a factual reconciliation of the corresponding facts at the Assessing Officer's end only. That being the case, we direct him to re-adjudicate and verify all the necessary facts afresh in consequential proceeding after affording adequate opportunity(ies) of hearing to the taxpayer. Ordered accordingly.

4. Delay of 74 days in filing of the instant appeal instituted on 09.06.2020 is condoned since falling in covid-19 pandemic outbreak period.

5. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the Open Court on this 11th day of August, 2022.

Sd/-
(DR.DIPAK P.RIPOTE)
लेखा सदस्य/**ACCOUNTANT MEMBER**
पुणे / Pune; दिनांक / Dated : 11th August, 2022.

Sd/-
(S.S. GODARA)
न्यायिक सदस्य/**JUDICIAL MEMBER**

Ashwini

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-3, Pune.
4. The Pr.CIT-1, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File. आदेशानुसार / BY ORDER,
// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

S.No.	Details	Date	Initials
1	Draft dictated on	20.06.2022	
2	Draft placed before author	.08.2022	
3	Draft proposed & placed before the Second Member		
4	Draft discussed/approved by Second Member		
5	Approved Draft comes to the Sr. PS/PS		
6	Kept for pronouncement on		
7	Date of uploading of Order		
8	File sent to Bench Clerk		
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R.		
11	Date of Dispatch of order		