

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "F", MUMBAI**

**BEFORE SHRI VIKAS AWASTHY, HON'BLE JUDICIAL MEMBER AND
SHRI S. RIFAUR RAHMAN, HON'BLE ACCOUNTANT MEMBER**

**ITA NO.1463 & 1465/MUM/2022
(A.Y: 2010-11 & 2012-13)**

Faze Three Autofad Ltd., 63, C Wing, Mittal Court Nariman Point, Mumbai - 400021 PAN: AACCA4981F	v.	DCIT – Circle – 6(1) Room No. 506, 5 th Floor Aayakar Bhavan, M.K. Road Mumbai - 400020
(Appellant)		(Respondent)

Assessee by	:	Shri Vijay Mehta
Department by	:	Ms. Vranda U. Matkarni
Date of Hearing	:	16.08.2022
Date of Pronouncement	:	26.08.2022

ORDER

PER S. RIFAUR RAHMAN (AM)

1. These appeals are filed by the assessee against different orders of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter in short "Ld.CIT(A)"] dated 31.03.2022 for the Assessment Years 2010-11 and 2012-13.

2. Aggrieved with the above order, assessee is in appeal before us raising following common grounds in its appeals: -

"1. The learned CIT(A) has erred in law and on facts in passing the ex parte order and thereby confirming the order passed by the

Assessing Officer. The learned CIT (A) has erred in not granting proper opportunity of hearing to the appellant.

2. The learned CIT(A) has erred in law and on facts in confirming the disallowance of depreciation and additional depreciation amounting to Rs. 42,79,565/- by applying the provisions of S. 43A of the Act. The learned CIT(A) ought to have appreciated that the provisions of S. 43A of the Act are not applicable in the facts of the case.

3. The appellant craves leave to add to, amend, alter or delete all or any of the foregoing grounds of appeal.

3. In both the appeals filed by the assessee, assessee has raised the ground that Ld.CIT(A) has passed the order exparte without giving proper opportunity of being heard to the assessee and Ld. AR of the assessee also brought to our notice order of the Ld.CIT(A) in both the appeals and brought to our notice that Ld.CIT(A) has issued several notices to the assessee and assessee has not responded and furnished any information nor it has sought any adjournment, Accordingly, he dismissed the appeals exparte. Further, he brought to our notice that assessee has sought adjournment before the Ld.CIT(A) on two occasions on 25.08.2021 and 14.10.2021 on medical grounds. However, Ld.CIT(A) has not considered those applications. He prayed that these appeals may be remitted back to the file of the Ld.CIT(A) for fresh adjudication.

4. On the other hand, Ld. DR objected to the above submissions and submitted that Ld.CIT(A) has given several opportunities of which

assessee has not utilized the opportunity. However, she agreed that the appeals are not adjudicated on merits.

5. Considered the rival submissions and material placed on record, we observe that even though Ld.CIT(A) issued several notices through ITBA system, however, assessee failed to respond to these notices and it is pertinent to note that these notices were issued during pandemic period except last notice dated 02.03.2022. We also notice that Ld.CIT(A) has not adjudicated the issue on merits. Therefore, we are inclined to remit this issue back to the file of the Ld.CIT(A) for the sake of overall justice to adjudicate on the merits after giving proper opportunity of being heard to the assessee. Accordingly, grounds raised by the assessee are allowed for statistical purpose.

6. In the result, appeals filed by the assessee are allowed for statistical purpose.

Order pronounced in the open court on 26th August, 2022.

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Mumbai / Dated 26/08/2022
Giridhar, Sr.PS

Sd/
(S. RIFAUH RAHMAN)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mum