

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "G" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER) AND
SHRI RAHUL CHAUDHARY (JUDICIAL MEMBER)**

**ITA No. 1975/MUM/2022
Assessment Year: 2013-14**

M/s Gas Jeans Pvt. Ltd.,
A-Wing, 410,4th floor, Express
Zone, Western Express Highway,
Diagonally, Opp. Oberoi Mall,
Goregaon-East,
Mumbai-400063.

PAN No. AADCG 6602 J
Appellant

Asst. CIT Circle-9(3)(2),
Room No. 418, 4th floor,
Aayakar Bhavan, M.K. Road,
Mumbai-400020.

Vs.

Respondent

Assessee by : Mr. Satyaprakash Singh, AR
Revenue by : Mr. Sanyam Suresh Joshi, DR

Date of Hearing : 10/10/2022
Date of pronouncement : 14/10/2022

ORDER

PER OM PRAKASH KANT, AM

This appeal has been preferred by the assessee against the order dated 24.06.2022 passed by the Ld. National Faceless Appeal Centre (NFAC), Delhi (hereinafter shall be referred as 'First Appellate Authority or FAA') for assessment year 2013-14, raising following grounds :



1. *The order dated 24/06/2022 bearing No. ITBA/NFAC/S/250/2022-23/1043565004[1] by the CIT[A], NATIONAL FACELESS APPEAL CENTRE, DELHI is arbitrary, against natural justice, unlawful, against the provisions of Income Tax Act, 1961, invalid and therefore liable to be quashed.*
2. *On facts and circumstances of the case and in law, the Hon'ble C.I.T.(A) has erred in confirming the transfer pricing adjustment of Rs.61,13,689/- on account of Advertising, Marketing and Promotion Expenses incurred by the Appellant using profit split method by considering AMP Expenses incurred by the Appellant.*

2. At the outset, the Ld. Counsel of the assessee submitted that this appeal has been decided by the Ld. First Appellate Authority without taking into consideration any reply of the assessee and without adjudication on merit. The Ld. Counsel of the assessee submitted that the appeal was filed by the assessee physically. However, appeal has been decided in faceless manner where notices were issued to the assessee through E-mail. The faceless environment being new to the assessee, the assessee was not in habit of regularly looking into its E-mail and therefore, could not responded to the various notices issued by the Ld. FAA. Before us,



the Ld. Counsel of the assessee submitted that a fresh opportunity be provided as the assessee is willing to co-operate and file replies in support of its contention on the various issues on which addition have been sustained. The Ld. Counsel of the assessee given an undertaking that notices issued by the Ld. FAA, shall be responded by him on behalf of the assessee and therefore, he prayed that matter may be restored back to the Ld. FAA for deciding afresh.

3. On the other hand, the Ld. Departmental Representative (DR) objected for restoring the matter to the Ld. FAA as already sufficient opportunity were provided to the assessee by the Ld. FAA.

4. We have heard rival submission of the parties on the issue-in-dispute and perused the relevant material on record. This is undisputed that this appeal has been adjudicated by the Ld. FAA in faceless manner wherein notices are issued in electronic manner and assessee was also required to reply the notices through E-mail



only. This being the phase of newly inserted scheme of faceless appeal, difficulty in replying by the assessee through E-mail could be a reasonable cause for non-complying the notices issued by the FAA. In view of an undertaking given by the Ld. Counsel for the assessee, we feel it appropriate to restore the issue back to the Ld. FAA for deciding afresh. The Ld. Counsel has provided current address and the current E-mail of the assessee in form No. 36. He has also provide his E-mal ID: mail@naginparekh.in alternatively. The Ld. FAA may issue notices on the current physical or E-mail address as provided alongwith a copy to the Ld. Counsel, who has given undertaking for complying notices. The Ld. FAA is directed to pass a reasoned order on merit after considering the submission of the assessee. If no submissions are provided then even the Ld. CIT(A) should pass an order deciding the issue on merit. The grounds of the assessee are allowed for statistical purposes.



5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court in 14/10/2022.

**Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 14/10/2022
Dragon Legal/Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Sr. Private Secretary)
ITAT, Mumbai