

IN THE INCOME TAX APPELLATE TRIBUNAL “F ” BENCH, MUMBAI
BEFORE SHRI AMARJIT SINGH, AM AND MS. KAVITHA RAJAGOPAL, JM

ITA Nos. 2604, 2605, 2606 & 2607/Mum/2022
(Assessment Years: 2013-14 to 2015-16)

Faze Three Autofab Limited 63, ‘C’ Wing, Mittal Court, Nariman Point, Mumbai-400 021	Vs.	Dy. CIT, Circle-6(1)(2) Mumbai
PAN/GIR No. AACCA 4981 F		
(Appellant)	:	(Respondent)
Appellant by	:	Shri Anuj Kisnadwala
Respondent by	:	Shri Vranda U. Matkarni
Date of Hearing	:	15.12.2022
Date of Pronouncement	:	16.12.2022

ORDER

Per Bench:

These appeals have been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) (‘ld.CIT(A) for short), National Faceless Appeal Centre (‘NFAC’ for short) passed u/s.250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Years (‘A.Y.’ for short) 2013-14, 2014-15 and 2015-16.

2. As the facts are identical in all the appeals, we hereby pass a consolidated order, by taking ITA No. 2064/Mum/2022 as the lead case.

3. It is observed that the assessee has filed these appeals belatedly after a delay of 77 days which the assessee prays to be condoned as there was ‘sufficient cause’ for the

delay. After hearing both the side and perusing the decisions cited by the assessee, we deem it fit to condone the delay of 76 days in filing these appeals.

4. The assessee has challenged the *ex parte* order passed by the Id. CIT(A), confirming the order of the Assessing Officer (A.O. for short) u/s. 143(3) r.w.s. 147 of the Act and challenging the reopening, the addition on interest income and disallowance of depreciation as per section 43A of the Act.

5. The brief facts are that the assessee company is engaged in the business of manufacturing of automotive fabrics, textile fabric, laminated woven and knitted fabric. The assessee filed its return of income for A.Y. 2013-14 dated 30.11.2013, declaring total income at Rs.2,15,70,870/-. The assessee's case was selected for scrutiny and assessment order dated 04.03.2016 was passed by the A.O. Subsequent to this, the assessee's case was reopened u/s. 147 of the Act for the reason that the A.O. observed interest income, amounting to Rs.10,86,876/- was credited under the head 'other income' in the profit and loss account, whereas, it was observed that under the head 'other current assets', interest receivable for the current year was shown at Rs.30,73,017/-. The A.O. has stated that as the assessee was following mercantile system of accounting, the interest income received or receivable has to be credited to the profit and loss account, whereas the assessee has offered interest income, which is less by Rs.19,86,141/-, has resulted in under assessment of income, leading to short levy of tax, amounting to Rs.6,44,403/-. For this reason, the A.O. has reopened the assessment of the assessee on the belief that income has escaped assessment. The assessment order u/s. 143(3) r.w.s. 147 dated 12.12.2019 was passed by the A.O., determining the total income at Rs.2,71,94,630/- and the interest income,

amounting to Rs.19,86,141/- was added to the total income of the assessee as 'interest not offered'. The A.O. has also disallowed consequential depreciation, amounting to Rs.36,37,621/- as per section 43A of the Act.

6. Aggrieved by this, the assessee was in appeal before the Id. CIT(A) who confirmed the additions/disallowances made by the A.O, by an *ex parte* order on the ground that the assessee has not made due compliance before the first appellate authority.

7. Further aggrieved, the assessee is in appeal before the Tribunal.

8. The Id. Authorized Representative (AR for the assessee) contended that the Id. CIT(A) has passed an *ex parte* order by not considering the adjournment applications filed by the assessee before the Id. CIT(A). The Id. AR also relied on the co-ordinate bench decision in assessee's own case in ITA Nos. 1463 & 1465/Mum/2022 for A.Ys. 2010-11 and 2012-13, vide order dated 26.08.2022, in which the assessee was given one more opportunity to present its case before the Id. CIT(A). The Id. AR stated that the assessee has a got a case on merit and prayed for restoring the file back to the file of the Id. CIT(A) for adjudication.

9. The Id. Departmental Representative (Id. DR for short) vehemently opposed to the request of the assessee.

10. Having heard the rival submissions and perused the materials available on record. We deem it fit and proper to provide one last opportunity to the assessee to present its case before the Id. CIT(A) in the interest of principles of natural justice. The assessee is also directed to present its case before the Id. CIT(A) without any further delay. Hence,

all these appeals filed by the assessee are remanded back to the Id. CIT(A) for fresh adjudication by giving opportunity to the assessee to present its case.

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

Order pronounced in the open court on 16.12.2022

Sd/-

(Amarjit Singh)
Accountant Member

Mumbai; Dated : 16.12.2022
Roshani, Sr. PS

Sd/-

(Kavitha Rajagopal)
Judicial Member

Copy of the Order forwarded to :

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

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai