

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'C' BENCH, KOLKATA
Before Shri Rajpal Yadav, Vice-President (KZ)**

&

Shri Rajesh Kumar, Accountant Member

I.T.A. No. 707/KOL/2022

Assessment Year: 2013-2014

Sahara Universal Minings Corporation Ltd., Appellant

Sahara India Sadan,

2A, Shakespeare Sarani,

Kolkata-700071

[PAN: AALCS3315G]

-Vs.-

Assistant Commissioner of Income Tax,....Respondent

Circle-7(1), Kolkata,

Aayakar Bhawan,

P-7, Chowringhee Square,

Kolkata-700069

Appearances by:

Shri Pratyush Jhunjunwala, A.R. and Shri Uttam Sarma, Advocate, appeared on behalf of the assessee

Shri G. Hukugha Sema, CIT, appeared on behalf of the Revenue

Date of concluding the hearing : February 23, 2023


Date of pronouncing the order : February 23, 2023

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The assessee is in appeal before the Tribunal against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 14.10.2022 passed for A.Y. 2013-14.

2. Before advertng to the submissions of the Id. Counsel for the assessee and appreciating the facts, we deem it appropriate to take note of the complete order of the Id. CIT(Appeals), which reads as under:-

	भारत सरकार / GOVERNMENT OF INDIA वित्त मंत्रालय / MINISTRY OF FINANCE आयकर विभाग / INCOME TAX DEPARTMENT राष्ट्रीय पहचानविहीन अपील केन्द्र / NATIONAL FACELESS APPEAL CENTRE (NFAC) दिल्ली / DELHI		
To, SAHARA UNIVERSAL MININGS CORPORATION LIMITED 2A SAHARA INDIA SADAN , SHAKESPEAR SARANI KOLKATA 700071 ,West Bengal India			
PAN: AALCS3315G	AY: 2013-14	Dated: 14/10/2022	DIN & Order No : ITBA/NFAC/S/250/2022-23/1046308708(1)
Order u/s 250 of Income Tax Act.1961			
<i>Instituted on 27/01/2017 from the order of CIRCLE 8(2), KOLKATA dated 30/12/2016</i>			
Appeal No	CIT(A), Kolkata- 3/11066/2016-17		
Status/Deductor Category	Company		
Residential Status	Resident		
Nature of Business	Others		
Section under which the order appealed against was passed	147r.w.s143(3)		
Date of Order under which the order appealed against was passed	30/12/2016		
Income/Loss Assessed (in Rs .)	8123990360		
Tax/Penalty/Fine/Interest Demanded (in Rs.)	4182042887		
Present for the appellant	J.J.Mehotra, FCA, Manish Raj, A/R & Ayan Chakraborty, A/R		
Present for the Department	none		
<p>The present appeal has been instituted on 27.01.2017 against the order dated 30.12.2016 read with section 147 r.w.s 143(3) of the Income Tax Act, 1961 for the assessment year 2013-14. The appeal has been migrated to national Faceless Appeal Centre (NFAC) in terms of Notifications No. 76/2020 dated 25.09.2020 published in the Gazette of India by CBDT, New Delhi under Department of Revenue, Ministry of Finance, Government of India.</p>			
2. During appellate proceedings, as per details available on record, it is noted that			

till date on five occasions we have intimated the NFAC that the appeal of the appellant stands already decided by the commissioner of Income Tax (Appeals)-7, Kolkata vide his order dated 29.12.2017 in Appeal No. 331/CIT(A)-7/Kol/Cir-8(2)/17-18. A chart showing the date of intimation sent through e-filing is enclosed herewith.

3. In light of the above facts and circumstances, it is humbly prayed that the proceedings of hearing of the appeal under section 250 which have been initiated by your honour are not tenable in law and, therefore, the same may kindly be dropped and filed. As a result, appeal is dismissed as withdrawn for statistical purpose.

Commissioner of Income-tax (Appeals)
Income Tax Department


CERTIFIED TO BE TRUE

Digitally signed by Commissioner
of Income-tax (Appeals), Income
Tax Department
Date: 14-10-2022 14:56:08 IST

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3. The ld. Counsel for the assessee, at the very outset, submitted that against an assessment order passed under section 147/143(3) dated 30.12.2016, an appeal was instituted before the ld. CIT(Appeals) on 27.01.2017. It was numbered as under:-

Appeal No. 331/CIT(A)-7/Kol/Circle-8(2)/17-18

He further contended that this appeal was decided on 29.12.2017. The Id. Counsel for the assessee has placed on record copy of the Id. CIT(Appeals)'s order before us and for the facility of reference, we take note of the first page of this order, which reads as under:-

Sahara Universal Minings Corpn. Ltd.
Appeal No.331/CIT(A)-7/Kol/Circle-8(2)/17-18
A.Y 2013-14

**Office of the Commissioner of Income Tax (Appeals)-7
Aayakar Bhawan, Dakshin, 2, Gariahat Road (South), Kolkata - 68.**

Date of Order : 29/12/2017
Appeal No.331/CIT(A)-7/Kol/Circle-8(2)/17-18

1. Date of Institution of appeal	: 27/01/2017
2. Name & address of the appellant	:Sahara Universal Minings Corpn. Ltd. 2A, Shakespeare Sarani, Satish Mukherjee Road, Kolkata - 700 071.
3. Assessment Year	: 2013-14
4. PAN	: AALCS3315G
5. Name and designation of the AO who made the assessment order	: A.P. Kumar ACIT, Circle-8(2), Kolkata
6. Section under which order appealed against was passed	: u/s.147/143(3) of the I.T. Act, 1961
7. Income/ wealth assessed	: Rs.812,39,90,360/-
8. Tax/Penalty demanded	: Rs.418,20,42,887/-


Date of hearing : As per records
Present for the Appellant : J.J.Mehotra, FCA, Manish Raj, A/R & Ayan Chakraborty, A/R
Present for the Department : None

APPELLATE ORDER AND GROUNDS OF DECISION

1. The assessee Co. derived income from investment, acquiring, holding, selling of anything related to mining. The return of income was e-filed on 21.01.2015 showing total income of Rs.24,48,51,570/-. In response to the notice u/s 148, the assessee Company filed its return on 08.12.2015 for the A.Y. 2013-14 showing total income of Rs.1,17,37,470/-. The income was assessed u/s 147/143(3) on a total income of Rs.812,39,90,360/-

2. This appeal is instituted against the order dated 30.12.2016 under section 147/143(3) of the Income Tax Act, 1961 (the Act) for the A.Y. 2013-14 passed by the ACIT, Circle-8(2), Kolkata (AO).

3. Aggrieved with the assessment order the appellant has filed the following grounds of appeal:



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4. The Id. Counsel further submitted that since appeal has already been decided by the Id. 1st Appellate Authority, therefore, cognizance on a decided appeal taken by the Id. CIT(Appeals) is an erroneous step. When this fact was brought to the notice of Id. CIT(Appeals), then Id. CIT(Appeals) instead of dropping the proceeding and treating the proceeding as redundant concluded in the last line that appeal is dismissed as withdrawn for statistical purpose. The apprehension of the Id. Counsel for the assessee is that it may creates some problem for the assessee *qua* the original order dated 29.12.2017. Therefore, he submitted that basically this impugned order be set aside and it is to be held that dispute stands resolved by an order dated 29.12.2017.

5. We find force in his contention and in order of buttress this contention, we have reproduced the impugned order as well as first page of the order dated 29.12.2017. After considering the above, the appeal of the assessee is treated as allowed. The order of the Id. CIT(Appeals) is set aside. For statistical purposes, in the record of the Id. CIT(Appeals), it is to be recorded that cognizance taken by Faceless Authority on the appeal of the assessee for A.Y. 2013-14 is to be construed as dropped.

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 23rd February, 2023.

Sd/-

**(Rajesh Kumar)
Accountant Member**

Sd/-

**(Rajpal Yadav)
Vice-President (KZ)**

Kolkata, the 23rd day of February, 2023

Copies to :

(1) ***Sahara Universal Minings Corporation Ltd.
Sahara India Sadan,
2A, Shakespeare Sarani,
Kolkata-700071***

(2) ***Assistant Commissioner of Income Tax,
Circle-7(1), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square, Kolkata-700069***

(3) Commissioner of Income Tax(Appeals),
National Faceless Appeal Centre (NFAC), Delhi;

4) Commissioner of Income Tax- ;

(5) The Departmental Representative

(6) Guard File

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.