

IN THE INCOME TAX APPELLATE TRIBUNAL “G” BENCH, MUMBAI

**BEFORE SHRI OM PRAKASH KANT, AM AND
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 520/Mum/2023
(Assessment Year: 2014-15)

Spice of Life Hotels Private Limited 1 Somnath Ram Mandir Road, Vile Parle (E), Mumbai-400 057	Vs.	CIT(A), NFAC Delhi
PAN/GIR No. AAPCS 3706 D		
(Appellant)	:	(Respondent)
Assessee by	:	Shri Ronak Doshi & Sukanya Jayaram
Revenue by	:	Shri A. No. Bhalekar
Date of Hearing	:	03.05.2023
Date of Pronouncement	:	04.05.2023

ORDER

Per Kavitha Rajagopal, JM:

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short), National Faceless Appeal Centre ('NFAC' for short) u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2014-15.

2. The assessee has challenged the grounds of reopening, disallowance made u/s. 14A of the Act along with the other consequential grounds.

3. The brief facts are that the assessee filed its return of income dated 27.09.2013, declaring total loss of Rs.19,15,726/-. The assessee's case was selected for scrutiny and the assessment order dated 06.12.2017 was passed u/s. 143(3) of the Act where the A.O. determined the loss at Rs.1,46,31,252/-. The assessee's case was reopened u/s. 147 of the

Act for the reason that the income has escaped assessment thereby passing the impugned assessment order dated 28.03.2022 u/s. 147 r.w.s. 144B of the Act and determined the total income at a loss of (-)Rs.1,26,53,867/- where the A.O. made disallowance u/s. 14A amounting to Rs.19,77,385/-.

4. Aggrieved the assessee was in appeal before the Id. CIT(A), who confirmed the said addition/disallowance vide an *ex parte* order dated 22.12.2022. The assessee is in appeal before us, challenging the said order.

5. During the appellate proceeding, the Id. AR for the assessee prayed that the assessee may be given one more opportunity to present its case before the Id. CIT(A). The Id. AR stated that the assessee has got a good case and further assured compliance before the Id. CIT(A).

6. The learned Departmental Representative (Id. DR for short) for the Revenue had nothing to controvert the same.

7. We have heard the rival submissions and perused the materials available on record. It is observed that the Id. CIT(A) has passed an *ex parte* order without going into the merits of the case. As the assessee has sought for to present its case before the Id. CIT(A), we are of the considered view that on the principles of natural justice, the assessee may be given one more opportunity to present its case before the Id. CIT(A). We, therefore, remand this issue back to the file of the Id. CIT(A) and direct the assessee to present its case without any delay. Needless to say, the Id. CIT(A) may decide the appeal on merits after giving adequate opportunity of hearing to the assessee.

8. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 04.05.2023

Sd/-

(Om Prakash Kant)
Accountant Member

Mumbai; Dated : 04.05.2023

Roshani, Sr. PS

Sd/-

(Kavitha Rajagopal)
Judicial Member

Copy of the Order forwarded to :

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

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai