

**IN THE INCOME TAX APPELLATE TRIBUNAL, ‘SMC’ BENCH
MUMBAI**

BEFORE: SHRI KULDIP SINGH, JUDICIAL MEMBER

**ITA No.695/Mum/2023
(Assessment Years :2010-11)**

Astamed Healthcare (India) Private Limited 114- Reena Complex, Kirol Road Opp. Neelkanth Business Park Vidyavihar (West) Mumbai.	Vs.	Dy. CIT-14(1)(1) Aayakar Bhavan, 4 th Floor, M.K. Marg, Mumbai.
PAN/GIR No. AADCA 8559 Q		
(Appellant)	..	(Respondent)

Assessee represented by	Shri Prakash Jhunjhunwala
Revenue represented by	Shri Jogendra Singh, Sr. AR
Date of Hearing	10/05/2023
Date of Pronouncement	10/05/2023

ORDER

PER KULDIP SINGH (J.M):

The Appellant, Astamed Healthcare (India) Private Limited (hereinafter referred to as the ‘assessee’) by filing the present appeal, sought to set aside the impugned order dated 16.01.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as the ‘CIT(A)’] qua the assessment order for Assessment year 2010-11 on the grounds inter-alia that:-

“ 1.On the facts and circumstances of the case and in law, the CIT(Appeal) erred in confirming the addition of sum of Rs. 87,50,000/- being unexplained cash credit u/s 68 of the Income Tax Act, 1961 without considering the facts of the case.

2. *On the facts and circumstances of the case and in law, the CIT(Appeal) erred in confirming the disallowance of sum of Rs. 1,00,617/- being interest paid on unexplained cash credit i.e. loan received from M/s Arjit Securities Pvt. Ltd. without considering the fact of the case.*
3. *The appellant craves leave to add, alter, amend or modify any or all grounds till the disposal of the appeal.*
4. *On the facts and circumstances of the case and in law opportunity of being heard is not provided to be appellant during appeal proceedings.”*

2. Briefly stated, facts necessary for consideration and adjudication of the issues at hand are : The assessee's case was reopened for assessment by initiating the proceedings under section 147/ 148 of the Income Tax Act (in short, “the Act”). The Assessing Officer noticed during the course of scrutiny assessment for A.Y. 2014-15 that the assessee has taken unsecured loan from M/s Arijit Securities Private Limited in A.Y. 2010-11 to the tune of Rs. 87,50,000/- and interest of Rs. 1,00,617/- totaling to Rs. 88,50,617/-. On failure of the assessee to file any document/evidence to establish the genuineness and creditworthiness M/s Arijit Securities Private Limited the AO proceeded to treat the unsecured loan of Rs. 87,50,000/- availed by the assessee from M/s Arijit Securities Private Limited and interest thereon to the tune of Rs. 1,00,617/- as non-genuine and made addition thereof as unexplained cash credit under section 68 of the Act. The AO also disallowed interest claimed by the assessee to the tune of Rs. 1,00,617/- under section 37(1) of the Act.

3. Assessee carried the matter before the Ld. CIT(A) by way of filing appeal who has confirmed the disallowance by dismissing the appeal filed by the assessee due to non prosecution. Feeling aggrieved with the impugned order passed by the Ld. CIT(A), assessee has come up before the Tribunal by way of filing the present appeal.

4. I have heard the Ld. Authorised representative of the parties to the appeal, perused the order passed Ld. Lower Revenue Authorities and material available on record in the light of the case law applicable.

5. At the very outset, The ld. AR for the assessee contended that the impugned order has been passed by the Ld. CIT(A) at back of the assessee without providing opportunity of being heard and drew my attention to towards para 4 of the impugned order wherein 3 notices were issued to the assessee during the Covid period and 4th notice which is available at page 4 of the paper book was to inform the assessee that “ommunication window” with the ld. CIT(A) has been enabled.

6. I have perused para 4 of the impugned order, which shows that notices dated 26.02.2020, 16,03,2020, 29,12,2020 and 01,11,2022 were issued to the assessee, out of which 3 notices fell during the Covid period and 4th notice dated 01.11.2022 , which is available at page 4 of the paper book shows that it is merely an information to the assessee that the communication widow with the ld. CIT(A) has been enabled.

7. All these facts go to prove that adequate opportunity of hearing heard has not been given to the assessee by the Id. CIT(A) nor the assessee has filed any document/evidence before the AO as is evident from para-6 of the assessment order wherein it is recorded that the assessee has not submitted any documents/evidences to establish the genuineness and creditworthiness of the creditors. Now the assessee has brought on record the complete documents which need to be examined by the AO . So to decide the issue once for and to stop the multiplicity of the proceedings the impugned order passed by the Id. CIT(A) is set aside and remitted back to the AO to decide afresh after providing adequate opportunity of being heard.

8. Resultantly, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 10/05/2023.

**Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

Mumbai; Dated 10/05/2023
Santosh, Sr. PS

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.

BY ORDER,

//True Copy//

(Sr. Private Secretary /
Asstt. Registrar)
ITAT, Mumbai

		Date	Initial	
1.	Draft dictated on	09/05/2022		Sr.PS
2.	Draft placed before author	10/05/2023		Sr.PS
3.	Draft proposed & placed before the second member	11/05/2023		JM/AM
4.	Draft discussed/approved by Second Member.			JM/AM
5.	Approved Draft comes to the Sr.PS/PS			Sr.PS/PS
6.	Kept for pronouncement on			Sr.PS
7.	File sent to the Bench Clerk			Sr.PS
8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			
11.	Dictation Pad is enclosed	Yes		