

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad 'A' Bench, Hyderabad**

**Before Shri R.K. Panda, Accountant Member**  
**AND**  
**Shri K. Narasimha Chary, Judicial Member**

ITA No.217/Hyd/2023		
Assessment Year: 2017-18		
A.P Tourism Development Corporation Ltd, Vijayawada PAN:AADCA9817H	Vs.	Dy. CIT Circle 1(1) Hyderabad
(Appellant)		(Respondent)
Assessee by:	Advocate R. Mohan Kumar	
Revenue by:	Shri Kumar Aditya, DR	
Date of hearing:	24/05/2023	
Date of pronouncement:	24/05/2023	

**ORDER**

**Per R.K. Panda, A.M**

This appeal filed by the assessee is directed against the ex-parte order dated 13/02/2023 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2017-18.

2. Facts of the case, in brief, are that the assessee is an A.P State Government Corporation incorporated under the Companies Act, 1956 and established with the main objective of developing tourism infrastructure in the state of Andhra Pradesh. The Corporation is a State Govt. Company since 1976. It filed its return of income declaring total loss of Rs.9,95,84,720/-. The case was selected for scrutiny under CASS and statutory notices u/s 143(2) & 142(1) were issued and delivered electronically to the

assessee. Subsequently, notices u/s 142(1) were also issued calling for certain information/details. However, there was no compliance from the side of the assessee for which the Assessing Officer completed the assessment u/s 144 of the I.T. Act on the basis of material available on record.

2.1 The Assessing Officer noticed that the Corporation has claimed depreciation @ 40% on the opening WDV of tourist coaches and also on opening WDV of mini coaches amounting to Rs.2,24,17,475/-. According to the Assessing Officer the depreciation rate should be 30%. Therefore, he disallowed the excess claim of depreciation of Rs.56,04,368/-. The Assessing Officer further noted from the 26AS statement that the assessee has received the following amount during the year:

S.No	Description of the income received	Section under which TDS is made by the deductor	Amount of income received
1	Rental/lease income	194IB	2,27,57,627
2	Interest	194A	95,05,223
3	Contracts	194C	1,56,36,740
4	Profession	194J	6,16,386
		Total	4,85,15,976

3. However, as per the P&L Account the above incomes are not taken into account. He, therefore, made addition of Rs.4,85,15,976/- to the total income of the assessee. Thus, the Assessing Officer determined the total loss at Rs.4,54,64,376/- as against the returned loss of Rs.9,95,84,720/-.

4. Since the assessee did not appear before the CIT (A)-NFAC despite number of opportunities granted, the learned CIT (A) NFAC, under the ex-parte order passed by him upheld the addition/disallowances made by the Assessing Officer and dismissed the appeal filed by the assessee by observing as under:

*“5 Decision:*

*I have given my careful consideration to the rival submissions, perused the material on record and duly considered the factual matrix of the case as well as the applicable legal position for arriving at the following decision.*

*6. The effective ground of appeal is against addition of Rs.4,85,15,976/- as per Form 26AS. In the ground of appeal, the appellant has stated that it is a govt. company with an objective of developing infrastructure, promoting tourism and that it had got separated between two post partition of states and could not complete the audit of its accounts as under law due to various procedural issues involved. It was stated that the receipt is already offered for taxes. But neither before the Assessing Officer and nor during appellate proceedings any details along with supporting evidence was filed. Thus, the appellant has failed to put up its case and the grounds raised by it remain unsubstantiated. In view of these facts of the case, the addition made by the Assessing Officer is confirmed and the grounds of appeal are ‘Dismissed’.*”

5. Aggrieved with such order of the learned CIT (A) – NFAC, the assessee is in appeal before the Tribunal by raising the following grounds:

*1) The order passed by the NFAC, Delhi is contrary to facts and law.*

*2) The NFAC failed to appreciate that there was bifurcation of State and accordingly also of the Corporation.*

*3) The NFAC did not consider the adjournment filed in light of the pending finalization of Audit.*

*4) The NFAC failed to consider that the assessee is entitled for higher depreciation under (3)(via)*

*5) The NFAC erred in confirming the addition of Rs.2,27,57,627/- under rental/ lease income received as the assessee has declared Rs.49,11,02,076/- under rent and lease income.*

*6) The NFAC erred in confirming the addition of Rs.95,05,223/- under interest, as assessee has declared an amount of Rs.1,71,01,051 under the head other income.*

*7) The NFAC erred in confirming the addition of Rs.1,56,36,740/- under contracts, the assessee as declared Rs.43,36,42,440/- under various heads.*

*8) The NFAC erred in confirming the addition of Rs.6,16,386/- under the head professional charges, the assessee has declared Rs.1,66,81,197/- under the head other operating income.*

*9) The appellant may be permitted to add, delete, amend any ground with approval of the Hon'ble Tribunal”.*

6. The learned Counsel for the assessee submitted that since the notices were sent electronically, the Corporation was not aware of such notices for which the matter remained unrepresented before the Assessing Officer. Even otherwise also when the amounts reflected in Form 26AS were already declared in the income, the Assessing Officer without understanding the facts has made the addition which is not correct. Further, the depreciation claimed by the assessee is as per Income Tax Rules. He submitted that although adjournment applications were filed before the learned CIT (A) NFAC, however, the learned CIT (A) NFAC without considering the adjournment application has dismissed the appeal. He submitted that in the interest of justice, the assessee corporation should be given one opportunity to substantiate its case.

7. The learned DR, on the other hand, submitted that despite number of opportunities granted by the Assessing Officer and the learned CIT (A) NFAC, there was no response from the side of the assessee for which the lower authorities have passed the ex-parte order. He accordingly submitted that the order of the learned CIT (A) NFAC should be upheld and the grounds raised by the assessee should be dismissed.

8. We have heard the rival arguments made by both the sides, perused the orders of the AO and the learned CIT (A) NFAC and the paper book filed on behalf of the assessee. We find the AO

in the instant case completed the assessment u/s 144 of the I.T. Act on the ground that the assessee did not appear before him and file the requisite details. We find the learned CIT (A) NFAC dismissed the appeal filed by the assessee, the reasons of which have already been reproduced in the preceding paragraph. It is the submission of the learned Counsel for the assessee that given an opportunity, the assessee corporation is in a position to substantiate its case with evidence to the satisfaction of either of the lower authorities regarding the two issues on which the addition/disallowance have been made. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the Assessing Officer with a direction to grant one final opportunity to the assessee to substantiate its case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the Assessing Officer and file the requisite details/documents without seeking any adjournment under any pretext failing which the Assessing Officer is at liberty to pass appropriate order as per law. We hold ad direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the Open Court on 24<sup>th</sup> May, 2023.

<b>Sd/-</b> <b>(K. NARASIMHA CHARY)</b> <b>JUDICIAL MEMBER</b>	<b>Sd/-</b> <b>(R.K. PANDA)</b> <b>ACCOUNTANT MEMBER</b>
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Hyderabad, dated 24<sup>th</sup> May, 2023

*Vinodan/sps*

Copy to:

S.No	Addresses
1	AP Tourism Development Corporation Ltd, Door No.55-17-2 TO 4, 5 <sup>th</sup> Floor, Stalin Corporate Building, Industrial Estate, Auto Nagar, Vijayawada 520007
2	Dy. CIT Circle 1(1) IT Towers, AC Guards, Masab Tank, Hyderabad
3	DR, ITAT Hyderabad Benches
4	Guard File

*By Order*