

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.124/Bang/2023
Assessment Year: 2016-17

M/s. Comfortable Abode Private Limited No.41, Mantri House Vittal Mallya Road Bangalore 560 001 PAN NO : AAGCP2087B	Vs.	ACIT Circle-2(1)(1) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Smt. Sunaina Bhatia, A.R.
Respondent by	:	Shri Sankar Ganesh K., D.R.

Date of Hearing	:	01.06.2023
Date of Pronouncement	:	01.06.2023

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal by assessee is directed against order of NFAC Delhi for the assessment year 2016-17 dated 2.2.2023.

2. Facts of the case are that the assessee company is in the field of business of undertaking development and construction of residential apartments. The company filed its original return of income for the AY 2016-17 on 30.11.2018 declaring current year loss of Rs.(-) 1,04,02,808/-. The case was selected for scrutiny through CASS. Statutory notice u/s 143(2) of the Income-tax Act,1961 ['the Act' for short] dated 1.8.2017 was issued and

served on the assessee company. Due to change in the incumbent officer, a notice u/s 142(1) r.w.s. 129 of the Act was issued on 10.11.2018. Notice u/s 142(1) of the Act were issued on 23.11.2018. Accordingly, assessment was completed u/ 143(3) of the Act on 28.12.2018 at assessed loss of Rs.6,92,061/-.

2.1 Aggrieved, the assessee went in appeal before NFAC. The NFAC has given notices of hearing to the assessee as follows:

S.No.	Date of issue	Date of compliance	Remarks
1	20.02.2020	04.03.2020	No written submission filed in support of grounds of appeal. No request of adjournment made.
2	29.01.2021	04.02.2021	
3	11.01.2023	17.01.2023	
4	18.01.2023	25.01.2023	

In view of this non-compliance from the assessee's side, the NFAC confirmed the order of AO. Against this assessee is in appeal before us by way of following grounds:

- 1) *The orders of the authorities below in so far as they are against the appellant are opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.*
- 2) *The learned CIT[A] is not justified in disposing off the appeal ex-parte without allowing sufficient and real opportunity to the appellant to represent the case and hence. the impugned order passed requires to be cancelled.*
- 3) *Without prejudice to the above, the learned CIT [A] is not justified in sustaining the addition in respect of notional interest on property advance to the extent of Rs. Rs.89,70,956/- under the facts and in the circumstances of the appellant's case.*
- 4) *Without prejudice to the above, and assuming that the impugned disallowance was made in terms of section 36[1][iii] of the Act, the learned CIT[A] ought to have held that the interest paid on*

ICD also had to be regarded as part of the closing work-in-progress of the project and accordingly inventorised under the facts and in the circumstances of the appellant's case.

3. Before us, the Id. A.R. submitted that all the notices stated in para 2.1 above were issued electronically through ITBA portal. The person incharge Mr. Mohankumar Singapura Jayanna, Managing Director of the Company was not conversant with ITBA portal and failed to see or verify the notices sent electronically. Hence, he failed to take note of the above notices and failed to represent the case before the NFAC.

4. The Id. D.R. submitted that assessee has not make use of opportunities given to it before this NFAC. Hence, appeal be decided on merit only.

5. We have heard the rival submissions and perused the materials available on record. In this case, admittedly, assessee has not participated before NFAC by filing requisite information and the NFAC decide the issue ex-parte. In our opinion, in the interest of justice, it is appropriate to remit the entire issue in dispute to the file of NFAC to decide the issue afresh after giving an opportunity of hearing to the assessee.

6. In the result, the assessee's appeal is partly allowed for statistical purposes.

Order pronounced in the open court on 1st June, 2023

Sd/-
(Beena Pillai)
Judicial Member

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 1st June, 2023.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(Judicial)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

**Asst. Registrar,
ITAT, Bangalore**