

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**MUMBAI BENCH “D” MUMBAI**

**BEFORE SHRI ABY T VARKEY (JUDICIAL MEMBER)**  
**AND**  
**SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)**

**ITA No. 3202 /MUM/2022**  
**Assessment Year: 2020-21**

Smt. Dakuben Saremalji  
Sancheti Nadol Charitable  
Trust,  
C/o G.P. Mehta & Co. CAS,  
807, Tulsiani Chambers,  
Nariman Point,  
Mumbai-400021.

**PAN No. AAATD 7192 E**

**Appellant**

**Vs.**

National Faceless Appeal  
Centre (NFAC),  
6<sup>th</sup> floor, Aayakar Bhavan,  
M.K. Road,  
Mumbai-400020.

**Respondent**

**Assessee by** : Mr. G.P. Mehta  
**Revenue by** : Mr. P.D. Chougule (Addl. CIT)

Date of Hearing : 23/05/2023  
Date of pronouncement : 31/05/2023

**ORDER**

**PER OM PRAKASH KANT, AM**

This appeal by the assessee is directed against order dated 09.11.2022 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)’] for assessment year 2020-21. The grounds raised by the assessee are reproduced as under:



1. *The orders passed by the Ld. Lower authorities are bad in law and bad in facts.*
2. *The Ld. CIT(A) have grossly erred in passing ex-parte order without giving adequate & reasonable opportunity of being heard.*
3. *The Ld. CIT(A) has grossly erred in holding that appellant did not comply with the notices issued & he has further erred in passing the appellate order ex-parte.*
4. *The Ld. Lower authorities have grossly erred in making an addition of Rs.1,20,11,455/- by way of prima facie adjustment u/s 143(1) of the I.T. Act, 1961. Reasons assigned for impugned addition are wrong & contrary to the evidence on record.*
5. *The intimation issued and upheld by the Ld. CIT(A) is void ab initio in view of decision of the Hon'ble Supreme Court in the case of cognizance for extension of limitation, In re. 432 ITR 206 (SC)*
6. *Having regard to the facts of the case, the provisions of law & judicial propositions, impugned additions are wholly untenable in law.*

2. Briefly stated facts of the case are that the assessee is a public charitable trust and filed its return of income for the year under consideration on 27.03.2021, as against extended due date up to 15.02.2021, the relevant forms prescribed under the Income Tax Rules i.e. Form No. 10B in Form 10 in relation to accumulation of income were also not filed by the assessee before the due date of the filing of the return of income. Therefore, while processing the return of income u/s 143(1) of the Income-tax Act, 1961 (in short 'the Act') Central Processing Centre (CPC) computed income of Rs.1,20,11,455/- taxable without giving any benefit of the application of the income to the extent of 15% of the income accumulated or said part for specific purposes u/s 11(2) of the Act.



On further appeal, in faceless appellate proceedings despite several notices issued no compliance was made by the assessee, the Ld. CIT(A) has reproduced a chart of the notices issued and non-compliance on the part of the assessee on page 3 of the impugned order. The Ld. CIT(A) has thereafter upheld the disallowance by the CPC due to non-compliance of the filing of the prescribed form before the due date. The Ld. CIT(A) has also noted that condoning the delay in filing such forms has been delegated to the Commissioner of Income-tax Exemptions and therefore no relief could be provided by him.

3. Before us, the Ld. Counsel of the assessee submitted that due to technical problems of computer software at the end of the assessee trust no compliance of the notices could be made. The Ld. Counsel also submitted that it was a period of the Covid Pandemic and thus also no compliance could be made of the notices issued by the Ld. CIT(A). He submitted that the assessee is willing to co-operate in proceedings before the Ld. CIT(A) and accordingly appeal may be restored back for deciding afresh.

4. In our opinion since the appeal has been decided ex-parte without taking into consideration the submission of the assessee and the assessee is willing to co-operate therefore in the interest of substantial justice we feel it appropriate to restore this appeal back to the Ld. CIT(A) for deciding afresh after taking into consideration



submission of the assessee. The grounds of appeal are accordingly allowed for statistical purposes.

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

**Order pronounced in the open Court on 31/05/2023.**

**Sd/-**  
**(ABY T VARKEY)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(OM PRAKASH KANT)**  
**ACCOUNTANT MEMBER**

Mumbai;

Dated: 31/05/2023

Rahul Sharma, Sr. P.S.

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Assistant Registrar)  
**ITAT, Mumbai**