

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH “SMC”: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No. 1098/DEL/2023**  
**[Assessment Year: 2018-19]**

Hitesh Bokadia, F-27, Ist Floor Mansarovar Garden, Delhi-110015. AEQPB4414B	<u>Vs</u>	Income-tax Officer, Ward-49(1), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee represented by</b>	<b>Ms. Meenakshi Sharma, CA</b>	
<b>Department represented by</b>	<b>Shri Om Parkash, Sr. DR</b>	
<b>Date of hearing</b>	<b>24.07.2023</b>	
<b>Date of pronouncement</b>	<b>25.07.2023</b>	

**ORDER**

**PER KUL BHARAT, JM:**

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 04.11.2022, pertaining to the assessment year 2018-19. The solitary ground raised by the assessee reads as under:

*“That the order passed under Section 250 is invalid. The Assessing Officer has considered the net increase as “zero” in point no. 13(e) of form 3CD (copy enclosed). However, the learned assessing officer has not given any consideration to the total income which has already includes the interest income disputed in this case. In fact, the late payment amounting to Rs. 1120492 has already been added in the net profit provided by the assessee for tax audit. Being a tax auditor, the auditor has no jurisdiction to change the profit and loss rather to comment upon it within the ambit of section*

*44AB of the Income Tax Act, 1961 under form 3CD. To give true and correct implementation of ICDS provision the tax auditor has decreased the profit of Rs. 1120492 though column of 13(e) of Form 3CD. To provide the natural justice, the case could not be rejected as a mere ground that the income was not enhanced through form 3CD. Therefore, the addition of Rs. 1120492 should be reduced.”*

2. Facts giving rise to the present appeal are that case of the assessee was selected for scrutiny on the issue of ICDS compliance and adjustment. The assessee filed its return of income declaring total income at Rs. 35,06,160/- on 31.10.2018. The Assessing Officer on verification of return noticed that the assessee had claimed an amount of Rs.11,20,492/- as decrease in profit on account of ICDS adjustment. The assessee was asked to explain the reason for reduction of profit by Rs. 11,20,492/-. The assessee filed reply on 21.04.2021. It was stated that as per ICDS of Revenue recognition IV, Revenue would be recognized when there is reasonable certainty of its ultimate collection. The reply so filed was not found acceptable by the AO and he made addition of Rs. 11,20,492/- to the income returned by the assessee, thereby assessing total income at Rs. 46,26,652/-. Aggrieved against this the assessee preferred appeal before the learned CIT(Appeals) who also dismissed the appeal. Now the assessee is in appeal before this Tribunal.

3. At the outset learned counsel for the assessee submitted that the present appeal is barred by time. In support of the application for condonation of delay an

affidavit has been filed. It is stated that the appeal filed before the learned CIT(Appeals) was dismissed vide impugned order dated 4.11.2022 against which appeal was filed before the Tribunal on-line on 21.12.2022. However, the assessee did not file any hard copy which was filed on 17.4.2023. Considering the reasons stated in the application, the delay in filing the appeal is condoned and the appeal is taken up for hearing on merit.

4. On merit, the learned counsel for the assessee submitted that the sum of Rs. 11,20,492/- was credited in the P&L A/c of the assessee against the interest to be recovered from M/s Auto Décor Pvt. Ltd. on outstanding doubtful debts. She further submitted that on the date of tax audit the matter was pending before the Addl. District Judge. Further, liquidation proceedings were initiated against M/s Auto Décor Pvt. Ltd. and the NCLT vide order dated 04.06.2019 had appointed a liquidator. Thus, since there was uncertainty in collection of interest of Rs. 11,20,492/- in respect of customer M/s Auto Décor Pvt. Ltd., the provisions of ICDS had been applied to reduce the profits to that extent. Learned counsel submitted that the authorities below failed to consider the relevant material evidence placed before them. She prayed to allow the appeal of the assessee by deleting the addition made by the AO and sustained by the learned CIT(Appeals).

5. On the other hand learned DR supported the orders of the authorities below.

6. I have heard rival contentions and perused the material available on record. I find that the learned AO disallowed the claim of the assessee by observing that the assessee had not included such interest income in his regular books of account. On the other hand the stand of the assessee is that it had included the sum of Rs. 11,20,492/- in its P&L A/c. Therefore, in order to come to a correct decision, regarding assessee's claim of applicability of the provisions of ICDS, the orders of authorities below are set aside and the matter is restored to the file of the Assessing Officer for verification and decision afresh, of course, after affording reasonable opportunity to the assessee to produce any material evidence, as deem fit, in support of its claim. Ground is allowed for statistical purposes.

7. Appeal of the assessee is allowed for statistical purposes only.

Order pronounced in open court on 25<sup>th</sup> July, 2023.

**Sd/-  
(KUL BHARAT)  
JUDICIAL MEMBER**

\*MP\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI