

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

**Before Shri R.K. Panda, Vice-President**  
**AND**  
**Shri Laliet Kumar, Judicial Member**

ITA No.263/Hyd/2022		
Assessment Year: 2018-19		
MASN Paper Trading (P) Ltd, Hyderabad PAN:AAKCM9783F (Appellant)	Vs.	Income Tax Officer Ward 16(3) Hyderabad (Respondent)
Assessee by:	Shri Vinod Kathepally, Adv.	
Revenue by:	Shri Shakeer Ahmed, DR	
Date of hearing:	31/07/2023	
Date of pronouncement:	31/07/2023	

**ORDER**

**Per R.K. Panda, Vice-President**

This appeal filed by the assessee is directed against the order dated 4.4.2022 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2018-19.

2. At the outset, it is seen that there is a delay of 25 days in filing of this appeal by the assessee for which the assessee has filed a condonation application along with an affidavit explaining the reasons for such delay. After considering the contents of the condonation application and after hearing both sides, the delay in filing of this appeal by the assessee is condoned and the appeal is admitted for adjudication.

3. Although a number of grounds have been raised by the assessee, however, these all relate to the order of the Learned CIT (A) NFAC in confirming the order passed by the Assessing Officer determining the income at Rs.5,23,20,234/- as against the returned income of Rs.6,33,240/-.

4. Facts of the case, in brief, are that the assessee is a private limited company and filed its return of income on 30.03.2021 disclosing a total income of Rs.6,33,240/-. The return was selected for complete scrutiny and statutory notices u/s 143(2) & 142(1) were issued to the assessee asking to file various details. The assessee furnished some details before the Assessing Officer, however, complete details were not furnished. The Assessing Officer passed the draft assessment order which the assessee received on 6.8.2021 wherein the assessee was directed to furnish the requisite details. However, the assessee sought adjournment on the ground that both the Directors of the company are affected by COVID and are at their native place. The Assessing Officer did not accept the request of the assessee for adjournment and final order u/s 143(3) r.w.s. 144B was passed assessing the total income of the assessee at Rs.5,23,20,230/-.

5. Before the learned CIT (A) NFAC, the assessee challenged the determination of the income at Rs.5,23,20,230/- as against the returned income of Rs.6,33,240/- without giving adequate opportunity for production of document before completing the assessment. However, the learned CIT (A) NFAC was also not satisfied with the arguments and dismissed the appeal filed by the assessee by observing as under:

5. Appeal was filed by the applicant on 19.09.2021 in form No.35 against assessment order passed u/s 143(3) on 20.08.2021.
  
6. Notice u/s 250 of the I.T. Act, 1961 was sent on 30.03.2022 requesting for submissions on or before 04.04.2022.
  
7. On 01.04.2022, the appellant has submitted reply stating that adjournment request was sought by the appellant during the assessment proceedings, though no reply / details was furnished by the appellant. The appellant has also not submitted the 20% of the outstanding demand.
  
8. On perusal of the details available on record, it is seen that the AO during the course of assessment proceedings for the A.Y. 2018-19 issued notices u/s 133(6) of the I.T. Act, 1961 to five parties to verify the genuineness of purchases. In response, only one party, Sri Vinayaka

Enterprises, prop. Sh. Mahesh Krishna Nayak which is also one of the directors of the applicant's company i.e. MASN Paper Trading Pvt. Ltd. has furnished the details while others four parties has not responded. To verify the genuineness, GST details of suppliers have been verified by the AO and it was found that GST No. of the major suppliers is Inactive and the same are cancelled by the GST Department.

9. Further, with regard to addition amounting to Rs.1,68,67,533/-, the appellant was issued a showcause dated 06.08.2021 by the AO as to why the amount of Rs.1,68,67,533/- should not be added to the income and was asked to furnish the details by 16.08.2021. In response, the appellant has submitted the adjournment request to the AO on 11.08.2021. However, the applicant has not submitted any documents / details with regard to queries asked in the above draft assessment order dated 06.08.2021.

10. With regard to addition amounting to Rs.92,59,008/-, the appellant was issued a showcause dated 06.08.2021 by the AO as to why the amount of Rs.92,59,008/- should not be added to the income and was asked to furnish the details by 16.08.2021. In response, the appellant has submitted the adjournment request to the AO on 11.08.2021. However, the applicant has not submitted any documents / details with regard to queries asked in the above draft assessment order dated 06.08.2021.

11. With regard to addition amounting to Rs.2,67,93,693/-, the appellant was issued a showcause dated 06.08.2021 by the AO as to why the amount of Rs.2,67,93,693/- should not be added to the income and was asked to furnish the details by 16.08.2021. In response, the appellant has submitted the adjournment request to the AO on 11.08.2021. However, the applicant has not submitted any documents / details with regard to queries asked in the above draft assessment order

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dated 06.08.2021.

**12.** From the above, it is clear that the applicant has neither able to submit the requisite details / submission with regard to the queries issued by the AO during the assessment proceeding for the A.Y. 2018-19 nor submitted any details during the course of this appeal proceedings. Therefore, the appeal filed by the appellant is dismissed and the appellant is directed to pay the outstanding demand raised vide assessment order dated 06.08.2021.

6. Aggrieved with such order of the learned CIT (A) the assessee is in appeal before the Tribunal.

7. The learned Counsel for the assessee submitted that high pitch assessment has been made by the Assessing Officer without giving due opportunity of being heard to the assessee and without following the principles of natural justice. Even the learned CIT (A) NFAC has also not given due opportunity of being heard to the assessee and he rejected the adjournment application filed by the assessee and upheld the actin of the Assessing Officer. He submitted that in the interest of justice, the assessee should be given an opportunity to substantiate its case before the Assessing Officer.

8. The learned DR, on the other hand, while supporting the order of the Assessing Officer and the learned CIT (A) NFAC submitted that despite number of opportunities granted by both the lower authorities below, the assessee did not respond to such notices for which addition has been made which is just and proper. Therefore, the addition made by the Assessing Officer and sustained by the learned CIT (A) NFAC should be upheld.

9. We have heard the rival arguments made by both the sides, perused the orders of the AO and the learned CIT (A) and the paper book filed on behalf of the assessee. We find the AO in the instant case determined the total income of the assessee at Rs.5,23,20,234/- as against the returned income of Rs.6,33,240/- by making various additions. While doing so, he rejected the adjournment application filed by the assessee wherein it was stated that the Directors have been affected by COVID and are residing at their native places and are not in a position to file the requisite details. We find the learned CIT (A) NFAC without giving adequate opportunity has upheld the action of the Assessing Officer, the reasons of which are already reproduced in the preceding paragraph. It is the submission of the learned Counsel for the assessee that due opportunity of being heard to the assessee was not given by either of the authorities below and therefore, the matter should be restored to the file of the Assessing Officer with a direction to give one final opportunity to the assessee to substantiate its case. 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 last opportunity to the assessee to substantiate its case by filing the requisite details and decide the issue as per fact and law. The assessee is also hereby directed to file the requisite details before the Assessing Officer as asked for without seeking any adjournment under any pretext failing which the Assessing Officer is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the Open Court at the time of hearing itself  
i.e. on 31<sup>st</sup> July, 2023.

<b>Sd/-</b> <b>(LALIET KUMAR)</b> <b>JUDICIAL MEMBER</b>	<b>Sd/-</b> <b>(R.K. PANDA)</b> <b>VICE-PRESIDENT</b>
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Hyderabad, dated 31<sup>st</sup> July, 2023.

***Vinodan/sps***

Copy to:

S.No	Addresses
1	MASN Paper Trading (P) Ltd., 1-2-911 Domalguda, Hyderabad 500029
2	Income Tax Officer Ward 16(3) IT Towers, Masab Tank, Hyderabad
3	DR, ITAT Hyderabad Benches
4	Guard File

*By Order*