

IN THE INCOME TAX APPELLATE TRIBUNAL  
Mumbai "A" Bench, Mumbai.

Before Shri B.R. Baskaran (AM) & Shri Rahul Chaudhary (JM)

I.T.A. No. 1885/Mum/2023 (A.Y. 2020-21)

ATC Tires Private Limited Unit No. 1001, 10 <sup>th</sup> Floor Tower A, Embassy 247 LBS Marg, Vikhroli West Mumbai-400 083.  PAN : AACCN5773A (Appellant)	Vs.	Asst. Director of Income Tax, Centralised Processing Centre/ DCIT-6(1)(2) Aayakar Bhavan M.K. Road Mumbai-400 020. (Respondent)
---	-----	--

Assessee by	Shri Nitesh Joshi
Department by	Shri Ajay Chandran
Date of Hearing	05.09.2023
Date of Pronouncement	05.09.2023

O R D E R

Per B.R.Baskaran (AM) :-

The assessee has filed this appeal challenging the order dated 27.3.2023 passed by the learned CIT(A), National Faceless Appeal Centre, Delhi and it relates to A.Y. 2020-21. The assessee is aggrieved by the decision of the learned CIT(A) in not adjudicating the grounds raised by the assessee against the adjustments made in the intimation issued under section 143(1) of the I.T. Act.

2. Learned counsel appearing for the assessee submitted that the assessee filed its return of income for the year under consideration declaring a total income at Rs. 404.10 crores. The said return of income was processed under section 143(1) of the Act by the CPC, wherein various additions were made by way of adjustments. Accordingly, the total income of the assessee was determined at Rs. 619.15 crores and the intimation was issued to the assessee. The Ld A.R submitted that the assessee filed appeal before the

learned CIT(A) challenging various adjustments made in the intimation issued under section 143(1) of the Act. However, the learned CIT(A) did not adjudicate the grounds urged on merit on the reasoning that the case of the assessee for the year under consideration has been taken up for scrutiny by issuing notice under section 143(2) of the Act has already been issued on 29.6.2021 and further, the AO has also proposed to examine some of the issues on which adjustments were made u/s 143(1) of the Act. Accordingly the learned CIT(A) declined to adjudicate the grounds urged on merit.

3. The Learned AR submitted that the assessee is entitled to challenge the adjustments made in the intimation under section 143(1) of the Act and the fact of taking up the return of income for scrutiny proceedings will not bar the assessee from filing appeal before Ld CIT(A). Accordingly, the learned AR contended that the learned CIT(A) was not right in law in declining to adjudicate the grounds urged on merits. The Learned AR further submitted that the assessee has got strong case against various adjustments made by the CPC and hence the Tribunal may be pleased to adjudicate the grounds urged on merit, in order to avoid multiplicity of proceedings.

4. The Ld D.R, on the contrary, submitted that all the issues may be restored to the file of Ld CIT(A) with a direction to adjudicate them on merits.

5. We heard the parties and perused the record. Admittedly the learned CIT(A) has not adjudicated the grounds urged by the assessee on merits in respect of various types of adjustments made by learned CPC to the income returned by the assessee. There is no dispute with regard to the fact that the assessee is entitled to challenge the intimation so issued u/s 143(1) of the Act in terms of provisions of sec. 246A(1)(a) of the Act. We noticed that the learned CIT(A) has refused to adjudicate the grounds urged on merit on the reasoning that the return of income filed by the assessee has been taken up

for scrutiny by issuing notice under section 143(2) of the Act, wherein some of the impugned issues may be examined by the AO.

6. In our view, the learned AR was right in contending that the fact of taking up the return of income for scrutiny will not bar the assessee to agitate various adjustments made in the intimation issued under section 143(1) of the Act. For example, if the Assessing Officer proceed to compute the total income in the assessment completed under section 143(3) of the Act by adopting total income as determined under section 143(1) of the Act as the starting point, then the same may bar the assessee to agitate the impugned adjustments in the appeal filed against the order passed under section 143(3) of the Act. Accordingly, we are of the view that the learned CIT(A) was not right in law in refusing to adjudicate the grounds urged on merits challenging the adjustments made in the intimation under section 143(1) of the Act.

7. Accordingly, we deem it appropriate to restore all the issues to the file of the learned CIT(A) for adjudicating them on merits. Accordingly, we set aside the order passed by the learned CIT(A) and restore all the issues to his file with the direction to adjudicate the grounds urged on merits by a speaking order, after affording adequate opportunity of being heard. We also direct the learned CIT(A) to pass the order as expeditiously as possible.

8. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in on 05.09.2023.

Sd/-  
(Rahul Chaudhary)  
Judicial Member

Sd/-  
(B.R. Baskaran)  
Accountant Member

Mumbai.; Dated : 05/09/2023

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai.
6. Guard File.

//True Copy//

PS

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai