

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**

**Before Shri Kul Bharat, Judicial Member
&
Dr. B. R. R. Kumar, Accountant Member**

ITA No. 1458/Del/2023 : Asstt. Year: 2018-19

Mahavir Den Entertainment P Ltd., A-11, Second Floor, Left Side, Rajouri Garden, Delhi 110027 (APPELLANT)	Vs	The DCIT, Circle-16(1), Delhi 110002 (RESPONDENT)
PAN No. AAGCM 0969 B		

**Assessee by : Sh. Kunal Verma, CA
Revenue by : Sh. Raghunath, Sr. DR**

Date of Hearing: 21.09.2023	Date of Pronouncement: 06.12.2023
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ORDER

Per Dr. B. R. R. Kumar:-

The present appeal has been filed by assessee against the order of Ld. NFAC/CIT(A), Delhi dated 14.03.2023.

2. The assessee has raised the following grounds of appeal are as under:-

1. Erred in upholding the assessment order dated 31.05.2021 passed under section 143(3) read with Section 144B of the Act by National e-Assessment Centre ("NeAC"), by holding that the Appellant is not aggrieved by the Assessment order and is not interested in prosecuting the same

2. Erred in upholding the assessment order without considering the second adjournment request made by the Appellant on 14.03.2023

3. Erred in upholding the assessment order without countering the grounds of appeal and the statement of facts filed by the Appellant at the time of filing of an appeal before NFAC

4. Failed to appreciate that the said assessment order was also passed without providing any opportunity of being heard to the Appellant, making the assessment order in violation of the principles of natural justice and shall be quashed

5. Erred in not appreciating the fact that disallowance made by Centralized Processing Center

("CPC') amounting to Rs. 8,70,253/- under Section 37 and Section 43B of the Act and confirmed by NeAC is merely on account of different reporting requirement under Tax Audit Report and in the Income Tax Return

6. Erred in not appreciating the fact that the disallowance of amount of Rs. 5,82,028 under Section 37 of the Act by CPC and confirmed by NeAC on the basis of disclosure in Tax Audit report, was already disallowed by the Appellant in the Income Tax Return under section 40 of the Act.

7. Erred in not appreciating the fact that disallowance of State Goods and Service Tax Payable ('SGST) amounting to Rs. 2,88,225/- under Section 43B of the Act by CPC and confirmed by NeAC is on account of wrong reporting in the Tax Audit Report by the Auditor as there was no SGST liability during the year ended 31-03-2018 and in fact this represented reversal of input credit.

8. Erred in dismissing the consequential ground against the levy of interest under 234B and 234C on the additions made in the assessment order under Section 143(3) of the Act.

3. It was brought to our notice that the CPC has disallowed the payment made u/s. 37 invoking provisions u/s. 43B merely based on the tax audit report and same has been confirmed by the NeAC. It was submitted that the audit report has been revised and the addition is not called for. Hence, we remind the matter to the file of JAO for verification. The assessee shall produce the relevant material before the JAO for the limited purposes verification of payment.

4. In the result, the appeal of the assessee is allowed for statistical purposes.

Order Pronounced in the Open Court on 06/12/2023.

Sd/-
(Kul Bharat)
Judicial Member

Sd/-
(Dr. B. R. R. Kumar)
Accountant Member

Dated: 06/12/2023

NV, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, DELHI