

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'F' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

**ITA No.238/Mum/2023
(Assessment Year :2018-19)**

M/s. Venus Trust March 2016 Asian Building Ground Floor 17 R. Kamani Marg Ballard Estate Mumbai - 400 001	Vs.	Dy. Commissioner of Income Tax (TDS)2(3) Mumbai
PAN/GIR No.AACTV1904C		
(Appellant)	..	(Respondent)

Assessee by	Shri Percy Pardiwala/Shri Niraj Seth
Revenue by	Shri Ujjawal Kumar Chavan
Date of Hearing	04/09/2023
Date of Pronouncement	30/11/2023

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 28/11/2022 passed by NFAC, Delhi in relation to the order passed u/s.201 for the A.Y.2018-19.

2. In various grounds of appeal, assessee has challenged the order passed by ld. CIT(A), that he has erred in law and on facts in treating the assessee to be 'assessee in default'

u/s.201 and upholding the order of the AO that assessee was required to deduct tax u/s.194 LBC on the amount of excess interest paid by the assessee. Further, assessee has also challenged the levy of interest u/s.201(1A).

3. At the outset, it has been pointed out that ld. CIT(A) has passed *exparte* order without even considering the written submission filed before him. Our attention was drawn to the detailed paper book and written submissions which were filed before the ld. CIT(A) which are appearing from pages 14-50 and from pages 103-200. Thus, the order of the ld. CIT(A) should be set aside and matter should be remanded back to decide the issue afresh after considering written submissions as well as other documents filed before him after giving due and effective opportunity of hearing.

4. Ld. DR also does not have any objection that the matter is remanded back to the CIT(A).

5. Accordingly, we set aside the issues raised before us to the file of the ld. CIT(A) to decide the issue afresh after considering the submissions and the documents filed before him and also to give effective opportunity of hearing to the assessee. Accordingly, appeal of the assessee is allowed for statistical purposes.

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

Order pronounced on 30th November, 2023.

Sd/-
(GAGAN GOYAL)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai; Dated 30/11/2023
KARUNA, *sr.ps*

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,

(Asstt. Registrar)
ITAT, Mumbai