

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

**BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT  
AND  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

**ITA No. 1456/Del/2023  
Assessment Year: 2012-13**

Air One Aviation P. Ltd.,  
D-112, Panchsheel Enclave,  
New Delhi.

**PAN: AAICA0671L**  
(Appellant)

Versus ACIT, Circle 2(2),  
New Delhi

(Respondent)

Assessee by : None  
Revenue by : Sh. Kanav Bali, Sr. Dr.

Date of hearing : 02.01.2024  
Date of pronouncement: 02.01.2024

**ORDER**

This is an appeal by the assessee against order dated 07.03.2023 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2012-13.

2. In ground No. 1, the assessee has assailed the order passed by the first appellate authority as unsustainable on the ground that the appeal was decided *ex parte* with complete disregard to the principles of rules of natural justice and further the first appellate authority has failed to adjudicate the appeal on merits.

3. Briefly, the facts are, the assessee is a resident corporate entity. For the assessment year under dispute, the assessee filed its return of income originally on 29.09.2012 declaring loss of Rs.3,92,77,038/-. Subsequently, based on information received from the office of DDIT(Inv.), assessment was reopened. Ultimately, the Assessing Officer completed the assessment vide order dated 23.12.2019 passed under section 143(3)/147 of the Income-tax Act, 1961 determining the total income at Rs.5,18,26,962/-, after making couple of additions. Against the assessment order so passed, the assessee preferred an appeal before first appellate authority. By the impugned order, the first appellate authority dismissed the appeal by sustaining the additions.

4. At the time of call, none appeared on behalf of the assessee. There is no request for adjournment either. However, considering the grievance of the assessee that the first appellate order has been passed without following the principles of rules of natural justice, we propose to decide the appeal of the assessee *ex parte qua* assessee after hearing learned Departmental Representative and based on materials on record.

5. We have heard learned Departmental Representative and perused materials on record. On going through the impugned order of

first appellate authority, it is observed that assessee's appeal was decided in faceless proceedings. Though, the first appellate authority has narrated in paragraph No. 3 of the impugned order the number of opportunities granted to the assessee, however, on going through the entire order of the first appellate authority, we have observed that assessee's appeal was dismissed, so to say, for non-prosecution. It is a fact on record that as against the loss declared by the assessee in the return of income, the Assessing Officer has determined positive income of Rs.5,18,26,962/- after making substantive and huge addition of Rs.9,10,04,000/-. The quantum of addition itself suggests that the issues arising in the appeal required consideration with proper application of mind. However, the order of the first appellate authority is bereft of any reasoning in so far as the merits of the additions are concerned. This, in our view, is not in accordance with the mandate of section 250 of the Act. Failure on the part of the assessee to respond to the notice of hearing does not mean that its appeal is to be decided in summary manner without proper reasoning. Considering the fact that the order of the first appellate authority on merits is non-speaking, we are inclined to set aside the impugned order of first appellate authority and restore the issues back to his file for deciding afresh after

due and reasonable opportunity of being heard to the assessee. The first appellate authority must pass a speaking order on all the grounds raised by the assessee. The assessee is also directed to cooperate in finalizing the proceedings. Grounds are allowed for statistical purposes.

6. In the result, appeal is allowed for statistical purposes.

Order pronounced in the open court on 02/01/2024.

Sd/-

**(PRADIP KUMAR KEDIA)**  
**ACCOUNTANT MEMBER**

Sd/-

**(SAKTIJIT DEY)**  
**VICE-PRESIDENT**

Dated: 02.01.2024

\*aks/-