

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

**Before Shri Challa Nagendra Prasad, Judicial Member
&
Dr. B. R. R. Kumar, Accountant Member**

ITA No. 2193/Del/2023 : Asstt. Year: 2011-12

Stylish Construction P Ltd., 222, 2 nd Floor, Hemkunt Chamber, 89 Nehru Place, New Delhi 110019 (APPELLANT)	Vs	The ACIT (OSD), Ward-24(2), New Delhi (RESPONDENT)
PAN No. AAICS 4664 H		

**Assessee by : Sh. Ashwini Kumar, CA
Revenue by : Sh. Vivek Vardhan, Sr. DR**

Date of Hearing: 29.01.2024	Date of Pronouncement: 01.02.2024
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ORDER

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

The present appeal has been filed by the assessee against the order of Id. CIT(A)/NFAC dated 21.06.2023.

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

1. That the order dated 21.06.2023 passed u/s 250 of the Income - tax Act, 1961 by the National Faceless Appeal Centre (NFAC), Delhi is against law and facts on the file in as much as he was not justified in neither considering nor discussing and adjudicating on the ground relating to the resort to the reassessment proceedings and issue of notice issued under section 148 of the Act as being bad in law.

2. That the order dated 21.06.2023 passed u/s 250 of the Income-tax Act, 1961 by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi is against law and facts on the file in as much as he was not justified to uphold the action of the Ld. Assistant Commissioner of Income Tax, OSD, Ward - 24(2), New Delhi in adding back a sum of Rs. 1,40,00,000/- transferred by M/s Concise Exim Pvt Ltd to the Appellant Company which amount was subsequently transferred back by the Appellant

Company to M/s Concise Exim Pvt Ltd by treating the said amount as an alleged undisclosed income of the Appellant Company under the provisions of Section 68 of the Act.

3. That the order dated 21.06.2023 passed u/s 250 of the Income-tax Act, 1961 by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi is against law and facts on the and has been passed by ignoring the basic principles of natural justice in as much as it unjustifiedly -

(i) ignores the written submissions dated 08.11.2019 filed during the course of the appellate proceedings;

(ii) holds that there was non-compliance of notices before the Assessing Officer also by ignoring the fact that notices issued/information required were duly attended to from time to time and requisite details furnished;

(iii) observes that there was no response on behalf of the Appellant Company on various dates of hearing whereas the fact of the matter is that request for adjournments were duly filed on various occasions.

3. The Id. CIT(A) has dismissed the appeal of the assessee, holding that no separate submission is uploaded despite many opportunities were given to the assessee.

4. Before us, the assessee submitted by the notice issued by the Id. CIT(A)/NFAC u/s. 250 of the Income Tax Act 1961, the following documents have been called for:

1. Form 35.
2. Assessment Order/intimation/154 order
3. Grounds of Appeal.
4. Statement of the Facts.
5. Demand Notice u/s. 156.

5. From the above, we find that while the Assessment Order is also missing. The Id. CIT(A) choose to dismiss the appeal of the assessee without bringing to the notice of the assessee the defective nature of the appeal filed. The appeal should have

been dismissed being defective in nature. We also find that notice has been issued on 14.06.2023 for furnishing of the written submission by 19.06.2023 and the order has been passed on 21.06.2023 at 17.56 hrs. The assessee submitted response on 14.06.2023 and the same has been ignored by the Id. CIT(A).

6. Hence, keeping in view the facts on record, we feel it is a fit case to remand the matter to the file of the Id. CIT(A) with directions to adjudicate all the issues including the issue of reopening u/s. 148 as taken ground no. 1 of the appeal of the assessee.

7. In the result, the appeal of the assessee is allowed for statistical purpose.

Order Pronounced in the Open Court on 01/02/2024.

Sd/-
(C.N Prasad)
Judicial Member

Dated: 01/02/2024

NV, Sr. PS

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

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, DELHI