

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

**Before Dr. B. R. R. Kumar, Accountant Member
Ms. Astha Chandra, Judicial Member**

ITA No. 2365/Del/2023 : Asstt. Year : 2020-21

Unique Clothing Pvt. Ltd., 52, First Floor, Manak Vihar, New Delhi-110092	Vs	Income Tax Officer, Ward-27(1), New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No. AABCU6004C		

**Assessee by : Sh. M. P. Rastogi, CA
Revenue by : Ms. Sapna Bhatia, CIT-DR**

Date of Hearing: 12.02.2024	Date of Pronouncement: 14.02.2024
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ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of National Faceless Appeal Centre (NFAC), Delhi dated 31.07.2023.

2. The moot issue involved in this case pertains to non-issue of notice u/s 154(3) of the Income Tax Act, 1961.

3. The provisions of Section 154(3) reads as under:

".....

*(3) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee or the deductor or the collector, shall not be made under this section **unless the authority concerned has given notice to the assessee** or the deductor or the collector of its intention so to do and has allowed the assessee*

or the deductor or the collector a reasonable opportunity of being heard.

(4) Where an amendment is made under this section, an order shall be passed in writing by the income-tax authority concerned.

(5) Where any such amendment has the effect of reducing the assessment or otherwise reducing the liability of the assessee or the deductor or the collector, the Assessing Officer shall make any refund which may be due to such assessee or the deductor or the collector.

(6) Where any such amendment has the effect of enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee or the deductor or the collector, the Assessing Officer shall serve on the assessee or the deductor or the collector, as the case may be a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 156 and the provisions of this Act shall apply accordingly.

(7) Save as otherwise provided in section 155 or sub-section (4) of section 186 no amendment under this section shall be made after the expiry of four years from the end of the financial year in which the order sought to be amended was passed.

(8) Without prejudice to the provisions of sub-section (7), where an application for amendment under this section is made by the assessee or by the deductor or by the collector on or after the 1st day of June, 2001 to an income-tax authority referred to in sub-section (1), the authority shall pass an order, within a period of six months from the end of the month in which the application is received by it,—

- (a) making the amendment; or*
- (b) refusing to allow the claim.”*

4. It was argued by the Id. AR that no notice has been issued while making adjustment in determining the taxable income to the detrimental effect of the assessee and since no notice u/s 154(3) has been issued, the order is vitiated.

5. On the other hand, the Id. CIT DR submitted that notice u/s 154(3) must have been issued by the Revenue authorities before embarking upon any adjustment. Since, the record did not reveal issue of any such notice u/s 154(3), the appeal of the assessee is hereby allowed, granting liberty to the revenue to approach the Tribunal with the evidences in case the notice u/s 154(3) has been issued and duly served upon the assessee as per the provisions of the Act.

6. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 14/02/2024.

Sd/-

(Ashta Chandra)
Judicial Member

Dated: 14/02/2024

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR