

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, BENGALURU BENCH
BENGALURU**

**BEFORE SHRI N. K. CHOUDHRY, JM &
SHRI LAXMI PRASAD SAHU, AM**

I.T.A. No.186/BANG/2024
(Assessment Year: 2016-17)

M/s. Ika Yoga Wear Pvt. Ltd.
#403, 1st Cross, 6th Main,
HAL 2nd stage, Indiranagar,
Bengaluru – 560 005

**Assistant Commissioner of
Income Tax,
Circle 3(1)(1)
Bengaluru,**

PAN No. **AADCI6322D**

(Appellant)

:

(Respondent)

**Appellant/Assessee by
Respondent/Department by**

:
:

Shri B.R. Sudheendra, CA
Shri Subramanian. S, JCIT

**Date of Hearing
Date of Pronouncement**

:
:

11.03.2024
11.03.2024

O R D E R

Per N. K. Choudhry, JM:

This appeal has been preferred by the Assessee against the order dated 07.12.2023, impugned herein, passed by National Faceless Appeal Centre (NFAC), Delhi/Ld. Commissioner of Income Tax (Appeals) [in short 'Ld. Commissioner'] under section 143(3) of the Income Tax Act 1961 (in short 'the Act') for the Assessment Year (in short 'AY') 2016-17.

2. In the instant case, the Assessing Officer (in short 'AO') vide assessment order dated 8.12.2018 u/s. 143(3) of the Act, made an addition of Rs.2,30,46,629/- u/s 68 of the Act on account of receipt of share premium over and above the FMV of the share and added the same in the total income of the Assessee. The Assessee being aggrieved challenged the said addition before the Id. Commissioner by filing first appeal, who though acknowledged the challenge to the assessment order u/s. 143(3) of the Act, dated 4.1.2019, in first appeal, however, inspite of deciding the appeal against the Assessing order referred to above, in fact proceeded to decide the rectification order dated 4.1.2019 passed u/s. 154 of the Act by the Assessing Officer, which as per parties submissions in fact was not the 'lis' before the Id Commissioner, who somehow, may be due to oversight or inadvertently, without deciding the appeal against the assessment order dated 8.12.2018, decided the validity of rectification order dated 4.1.2019. Hence, considering the peculiar facts and circumstances, as the appeal /grievance/grounds raised against the assessment order, dated 4.1.2019 remained to be un-adjudicated, and for the just decision and ends of justice, we are inclined to remand the instant case to the file of the Id. Commissioner for decision qua assessment order passed u/s 143(3) of the Act, suffice to say by affording reasonable opportunity to the Assessee to substantiate its case.

We are also inclined to direct the Assessee to comply with the notices and co-operate with the appellate proceedings and file the relevant reply/documents in support of its claim before the Id. Commissioner and in case further default, the Assessee shall not be entitled for any leniency.

Thus the case is remanded accordingly in the aforesaid terms.

3. In the result appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced in the open court on 11.03.2024 during virtual hearing.

Sd/-
(Laxmi Prasad Sahu)
Accountant Member

Sd/-
(N. K. Choudhry)
Judicial Member

Mini, Sr.PS.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai