

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI**  
**(DELHI BENCH 'E' NEW DELHI)**  
**BEFORE SHAMIM YAHYA, ACCOUNTANT MEMBER**  
**AND**  
**SH. YOGESH KUMAR U.S., JUDICIAL MEMBER**  
**ITA No. 2303/Del/2023 (A.Y. 2018-19)**

Nicky Marmo Ltd. Unit No. 203, Second floor, Pearls Best Height, 1 Netaji Subhash Place, Pitampura, New Delhi <b>PAN: AAACN3607P</b>	Vs.	Income Tax Officer, Ward-18(3), New Delhi
<b>Appellant</b>		<b>Respondent</b>

Assessee by	Shri Vishal Agarwal & Sh. Vinay Goyal, Advs.
Revenue by	Shri Subhra Jyoti Chakarborty, CIT DR

Date of Hearing	03/04/2024
Date of Pronouncement	04/04/2024

**ORDER**

**PER YOGESH KUMAR, U.S. JM:**

This appeal is filed by the Assessee against the order of Learned Commissioner of Income Tax (Appeals) National Faceless Appeal Centre (NFAC), Delhi ["Ld. CIT(A)", for short], dated 14/06/2023 for the Assessment Year 2018-19.

2. Brief facts of the case as mentioned in the order of the CIT(A) are that, the appellant is a company. The case was selected for complete scrutiny assessment under the E-assessment scheme 2019 to verify the source of large share premium received by the appellant company during the year. A total of 65,00,000 shares of face value of Rs. 10/- were allotted during the year, at a premium of Rs.35.81/- each. The total receipts from share allotment were Rs 29,77,65,000/- (including share premium of Rs 23,27,65,000/-). It was seen from the documents filed by the appellant including the ITRs of the investor companies that the investors to whom the shares were allotted at premium did not possess the necessary creditworthiness to invest such huge amounts in the assessee company. All the investors as well as the assessee company had common directors' viz. Sh. Raju Malik, Sh. Joginder Pal Gupta and Smt. Savita. Thus, it appeared that the investments in the appellant company were mere round tripping transactions, the actual source of which remains unexplained. Even the bank statements of the investors did not make it clear as to the source of the said investments. Just before the debit transactions towards the Appellant company for subscription of shares, various large credit entries was also received by the investors in their bank accounts, the source of which is unclear, especially in view of the small incomes of these investors. None of the investor companies that

had Invested huge amounts in crores in the appellant company had earned any Significant income to justify the investments. Accordingly, the investment received by the appellant company through allotment of shares amounting to Rs. 29,77,65,000/- remained unexplained and thus liable to tax u/s 68 r.w.s. 115BBE as unexplained cash credits. Hence an addition of Rs. 29,77,65,000/- was made u/s 68 of the Act by the A.O.

3. Aggrieved by the assessment order dated 23/04/2021, the assessee preferred an Appeal before the CIT(A). The Ld. CIT(A) vide order dated 14/06/2023, dismissed the Appeal filed by the Assessee ex-parte. As agaisnt the order of the Ld. CIT(A), the assessee preferred the present Appeal.

4. The Ld. Counsel for the assessee submitted that the order impugned of the Ld. CIT(A) has been passed in violation of natural justice, the assessee has not been provided with opportunity of being heard and the Appeal has been dismissed by the CIT(A) without deciding issues on the merit, therefore, sought for intervention of this Tribunal.

5. Per contra, the Ld. Departmental Representative relied on the orders of the Lower Authorities and sought for dismissal of the Appeal filed by the assessee.

6. We have heard both the parties and perused the material available on record. It is seen from the order of the Ld. CIT(A), the Ld. CIT(A) has not adjudicated the Grounds of Appeal of the assessee and dismissed the Appeal for non prosecution. Considering the above facts and circumstances, we remand the matter to the file of Ld. CIT(A) with a direction to decide the issue involved in the Appeal on merit after providing opportunity of being heard to the Assessee.

7. Since we have remanded the matter to the file of CIT(A) for de-novo adjudication on merit, we refrain from making any comment on the merits of the case. Accordingly, the Appeal of the assessee is partly allowed for statistical purpose.

**Order pronounced in the open court on 04<sup>th</sup> April, 2024.**

Sd/-

**(SHAMIM YAHYA)**  
**ACCOUNTANT MEMBER**

*Date:- 04.04.2024*

**\*R.N, SR.P.S\***

Copy forwarded to:

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

Sd/-

**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT, NEW DELHI

