

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "D", MUMBAI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER**

**AND**

**SHRI SUNIL KUMAR SINGH, HON'BLE JUDICIAL MEMBER**

**ITA NO. 4066/MUM/2023 (A.Y: 2011-12)**

M/s. Matchless Investment Finance and Leasing Ltd., 157, A to Z Industrial Estate G.K. Marg, Lower Parel (W) Mumbai - 400013  <b>PAN: AAACM7664B</b>	v.	Income Tax Officer – Ward – 12(3)(1) Aayakar Bhavan, M.K. Road Mumbai - 400020
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Assessee Represented by</b>	<b>:</b>	<b>Shri Piyush Chaturvedi</b>
<b>Department Represented by</b>	<b>:</b>	<b>Smt Mahita Nair</b>
<b>Date of conclusion of Hearing</b>	<b>:</b>	<b>18.04.2024</b>
<b>Date of Pronouncement</b>	<b>:</b>	<b>18.04.2024</b>

**ORDER**

**PER NARENDRA KUMAR BILLAIYA (AM)**

1. This appeal filed by the assessee is preferred against the order dated 21.09.2023 by National Faceless Appeal Centre, Delhi [hereinafter in short "Ld. CIT(A)"] pertaining to A.Y.2011-12.

**2.** The grievance of the assessee read as under: -

*"On the facts and circumstances of the case and in law: -*

- 1. The Ld. CIT(A) erred in dismissing the appeal as inadmissible due to the alleged delay in filing the appeal.*
- 2. The Ld. CIT(A) ought to have appreciated that, being a judicious authority, more opportunity could have been provided to the assessee, and he should have mentioned in the notice u/s. 250 that there is a delay in filing the appeal specifically when he has dismissed the appeal as inadmissible assuming a delay.*
- 3. The Ld. CIT(A) was too technical while dismissing the appeal, he should have applied a judicious approach and should have decided the issue on merit.*
- 4. The Ld. CIT(A) erred in confirming the additions made by the AO for Rs. 13,41,862/-*
- 5. We pray that the Hon'ble Tribunal is well empowered to admit and decide the appeal to meet the substantial end of justice following its motto of "Nishpaksh Sulabh Satvar Nyay." even though the CIT(A) has dismissed this appeal as inadmissible.*
- 6. The Appellant Company craves leave to add, withdraw, amend or alter any grounds of appeal as and when advised."*

**3.** Briefly stated the facts of the case are that, on the basis of the AIR/NMS data the Assessing Officer came to know that the assessee has done financial transactions in F.Y. 2010-11 but did not file its return of income. Financial transactions are in the nature of payment to Contractors and Alcoholic Liquor. Therefore, to verify the accountability of such transactions notice under section 148 of Income-tax Act, 1961 (in short "Act") was issued and served upon the assessee which went un-responded. The Assessing Officer thereafter issued notice under section 142(1) of the Act which was also not responded. The Assessing

Officer was left with no choice but to proceed on the basis of AIR / NMS information. The Assessing Officer noted that the assessee is in receipt of Contractor charges amounting to ₹.3,00,000/- and assumed 30% of contract charges as income of the assessee and made addition of ₹.90,000/-. The Assessing Officer also noted that the assessee is in receipt of ₹.15,51,862/- on account of Alcoholic Liquor on which TDS /TCS has been made by the payers. The Assessing Officer added ₹.15,51,862/- as income from Alcoholic Liquor and assessed the total income at ₹.13,41,862/-.

**4.** The assessee carried the matter before Ld. CIT(A) but without any success.

**5.** Before us, counsel for the assessee vehemently stated that the assessee never entered such transactions as alleged by the Assessing Officer. It is the say of the counsel that the assessee is engaged in business of investment, finance and leasing and due to adverse business conditions and recurring losses, the assessee stopped its business and its name has been struck down by the ROC from its register of Companies. The counsel further pointed out that all the deductors of TDS have revised their TDS returns showing the payment to the

assessee as erroneous. The Counsel also showed us the revised Form 26AS.

6. We have given a thoughtful consideration to the orders of the authorities below. We find that the Assessing Officer has proceeded on the information available with the department. The Assessing Officer has also drawn support from Form 26AS. Now, since the deductors have revised the TDS returns showing NIL payment to the assessee, we are of the considered view that this fact needs to be verified by the Assessing Officer. Therefore, in the interest of justice and fair play, we set-aside the matter to the file of Assessing Officer. The Assessing Officer is directed to verify the revised Form 26AS and decide the issue afresh, after affording a reasonable and adequate opportunity of being heard to the assessee.

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

Order pronounced in the open court on 18<sup>th</sup> April, 2024.

Sd/-  
**(SUNIL KUMAR SINGH)**  
**JUDICIAL MEMBER**

Mumbai / Dated 18.04.2024  
Giridhar, Sr.PS

Sd/-  
**(NARENDRA KUMAR BILLAIYA)**  
**ACCOUNTANT MEMBER**

**Copy of the Order forwarded to:**

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

//True Copy//

BY ORDER

(Asstt. Registrar)  
**ITAT, Mum**