

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "F" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)  
AND  
SHRI NARENDER KUMAR CHOUDHRY (JUDICIAL MEMBER)**

**ITA No. 38/MUM/2024  
Assessment Year: 2018-19**

Freight Connection India Pvt. Ltd.,  
M/s Kalyaniwalla & Mistry LLP,  
Esplanade House, 2<sup>nd</sup> floor, 29,  
Hazarimal Somani Marg, Fort,  
Mumbai-400 001.

**PAN NO. AAACF 2188 H**  
**Appellant**

**Vs.**

The Assessing Officer, National  
Faceless Assessment Centre, ITO  
6(3),  
Delhi.

**Respondent**

Assessee by : Mr. Jeet Kamdar/Mr. Radhakant  
Saraf  
Revenue by : Ms. Rajeshwari Menon, Sr. DR

Date of Hearing : 02/05/2024  
Date of pronouncement : 06/05/2024

**ORDER**

**PER OM PRAKASH KANT, AM**

This appeal has been preferred by the assessee against the order dated 09.11.2023 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)’] for assessment year 2018-19, raising following grounds:

- 1. The learned Commssioner of Income-tax (Appeals) erred in dismissing the Petition of Appeal filed by the Appellant by passing*



*an ex-parte order without granting adequate opportunity to the Appellant to file submissions in the matter. The order therefore suffers from lack of natural justice and requires to be quashed.*

2. *2 The learned Commissioner of Income-tax (Appeals) erred in stating that the Appellant did not file submissions in response to the Notice dated October 5, 2021, nor sought an adjournment in the matter, when in actual fact the Appellant had requested for an adjournment vide letter dated October 20, 2021.*
3. *3 The learned Commissioner of Income-tax (Appeals) erred in confirming the additions challenged by the Appellant in the Petition of the Appeal by alleging that the Appellant was not aggrieved with the Assessment Order and was not interested in pursuing the appeal.*
4. *4 The learned Commissioner of Income-tax (Appeals) erred in disregarding the contention raised by the Appellant that the Business Income of the Appellant has been erroneously considered in the Income Tax Computation Sheet at Rs. 13,28,14,103/- as against the correct amount of Rs. 13,23,46,074/-, despite the fact that no addition has been made to the Total Income of the Appellant vide the Assessment Order passed under Section 143(3) of the Act. The Appellant submits that the tax liability be computed on the correct Total Income of Rs. 13,23,46,074/- as returned by the Appellant.*
5. *The learned Commissioner of Income-tax (Appeals) erred in disregarding the fact that the Assessment Order passed under Section 143(3) of the Act will override the Intimation issued under Section 143(1) of the Act, whereby the Total Income determined as per the Assessment Order under Section 143(3) of the Act will override the Total Income wrongly assessed under Section 143(1) of the Act, pursuant to which there can be no further tax payable by the Appellant.*
6. *The learned Commissioner of Income-tax (Appeals) erred in confirming the levy of interest under Section 234A of the Act of Rs.3,100/-. The Appellant denies the liability to the levy of such interest and submits that the same be deleted.*
7. *The learned Commissioner of Income-tax (Appeals) erred in confirming the additional levy of interest under Section 234C of the Act of Rs.6,211/-. The Appellant denies the liability to the levy of such interest and submits that the same be deleted.*

2. At the outset, the Ld. counsel for the assessee submitted that the order passed by the Ld. CIT(A) is *ex-parte* without any finding of on merit of addition , therefore, it should be restored back t him for deciding on merit.



3. We have heard rival submission of the parties and perused the relevant material on record. We find that the Ld. CIT(A) has dismissed the appeal for default on the part of the assessee in prosecuting its appeal, but no finding on merit of the addition made by the Assessing Officer, has been given. Under the provisions of section 250(6) of the Income-tax Act, 1961 (in short 'the Act'), the Ld. CIT(A) is required to give his finding on merit of addition and pass a reasoned order even without representation on the part of the assessee, therefore, we set aside the order of the Ld. CIT(A) and restore the issue back to him for deciding afresh after taking into consideration submission of the assessee and pass a reasoned order on merit of the addition challenged by the assessee. In the result, the ground No. 1 of the appeal of the assessee is allowed.

3.1 Since, the appeal has been restored back to the file of the Ld. CIT(A) for deciding afresh, other grounds raised by the assessee are rendered infructuous.

4. In the result, the appeal of the assessee is allowed for statistical purposes.

**Order pronounced in the open Court on 06/05/2024.**

**Sd/-**  
**(NARENDER KUMAR CHOUDHRY)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(OM PRAKASH KANT)**  
**ACCOUNTANT MEMBER**

Mumbai;  
Dated: 06/05/2024  
Rahul Sharma, Sr. P.S.



**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,  
(Assistant Registrar)  
**ITAT, Mumbai**