

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
INDORE BENCH, INDORE**

**BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER**  
**AND**  
**SHRI B.M. BIYANI, ACCOUNTANT MEMBER**

**ITA No.514/Ind/2023**  
**(Assessment Year: 2012-13)**

Grand Consulting Servides Pvt. ltd. 403 c 4 <sup>th</sup> floor Gravity Mall 27 Mechanic Nagar Bhamori (Appellant / Assessee)	vs.	ITO, 2(1) Indore (Respondent/ Revenue)
<b>PAN: AADCG4729N</b>		
Assessee by	Shri Manish Dafria, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	06.05.2024	
Date of Pronouncement	09.05.2024	

**O R D E R**

**Per Vijay Pal Rao, JM :**

This appeal by assessee is directed against the order dated 11.10.2023 of the Commissioner of Income Tax (Appeal), National Faceless Appeal Centre, Delhi for A.Y.2012-13. The assessee has raised following grounds of appeal:

*“1. On the facts and in the circumstances of the case and in law, Ld. CIT(A) erred in not accepting the contention of the assessee that the ex-parte assessment order passed without service of*

*proper notice to the assessee and in the name of a different entity is not a valid order.*

*2. On the facts and in the circumstances of the case and in law, Ld. CIT(A) erred in sustaining the addition of Rs. 25,00,000/- made by the Ld. AO on account of alleged bogus accommodation entries disregarding the facts of the case, patent deficiencies in the assessment order and explanations submitted by the appellant.*

*3. The Appellant craves leave to amend, alter, add or delete all or any of the above grounds of appeal.”*

2. The assessee is a Pvt. Ltd. Company. There was a search and seizure action u/s 132 of Income Tax in case of Mr. Vipul Vidur Bhatt and related entities on 09.02.2016. During the search and seizure action statement of Shri Vipul Vidur Batt was recorded u/s 132(4) in which he accepted that he is an entry operator and all 11 companies were bogus entries of the companies used for providing various bogus entities /entries to the beneficiaries for commission. Based on the said information the AO reopened the assessment of the assessee by issuing notice u/s 148 on 15.10.2016. The AO proposed to assess the income of Rs.25,00,000/- on account of share capital received from M/s Sampda Chemicals Ltd. controlled by Mr. Vipul Vidur Batt as a Director of the said company. Since there was no response on behalf of the assessee to the notice issued u/s 148 as well as section 142(1) the AO framed the assessment u/s 144 r.w.section 147 whereby the total income of the assessee was assessed at Rs.25 lakhs. The assessee challenged the order of the AO before the CIT(A) but could not succeed.

3. Before the Tribunal Ld. AR has argued at length on various points including validity of the assessment order framed in name of Grand Consultancy Services Ltd. instead of Grand Consultancy Pvt. Ltd. Ld. DR has submitted that the assessment order was framed as best judgment assessment when there was no response on behalf of the assessee therefore, the assessee failed to produce any supporting evidence to the claim of share capital received from tainted entity.

4. At the outset, we find that the appeal memo in form 36 has not been verified in terms of Rule 47(1) of the Income Tax Rules, 1962 which reads as under:

*41. (1) An appeal under sub-section (1) or sub-section (2) of section 253 to the Appellate Tribunal shall be made in Form No. 36 85], and where the appeal is made by the assessee, the form of appeal, the grounds of appeal and the form of Verification appended thereto shall be signed by the person specified in 86[sub-rule (3)] of rule 45].*

*2) A memorandum of cross-objections under sub-section (4) of section 253 to the Appellate Tribunal shall be made in Form No. 36A 85], and where the memorandum of cross-objection is made by the assessee, the form of memorandum of cross-objections, the grounds of cross-objections and the form of verification appended thereto shall be signed by the person specified in [sub-rule (3)] of rule 45].”*

4.1 Thus, it is clear that the appeal u/s 253(1) to the Tribunal shall be made in form no.36 and the grounds of appeal shall be duly verified and appended thereto by the person specified in Rule

45(3) of Income Tax Rules 1962. Rule 45(3) prescribes that the form of appeal (Form No.35) shall be verified by the person who is authorized to verify the return of income u/s 140 of the Act as applicable to the assessee. Thus, form no. 35 shall be signed and verified by the person who is authorized to verify the return of income u/s 140 of the Act. Section 140 of Income Tax Act prescribes the person who is authorized/competent to verify the return of income and as per clause(c) of section 140 the Managing Director of a company is the person competent to verify the return of income of company and also memo of appeal in form 36 in view of section Rule 47(1) r.w. Rule 45(3) of the Income Tax Rules 1962. In case the managing director is not available to verify or there is no managing Director then by any Director of the company. In case in hand the form 36 is verified by the Authorized Representative (CA) of the assessee company and not by the Managing Director or Director of the assessee company. For ready reference a scan copy of form no. 36 is reproduced as under:

Form No. 36  
(Sec Rule 47(1))

Form of appeal to the Appellate Tribunal

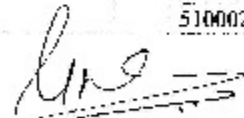
In the Income Tax Appellate Tribunal, Indore

S.T. Appeal No. 514/54/2023  
(FFXXXXXX3044)

EF  
13/12-13

GRAND CONSULTING SERVICES PRIVATE LIMITED, Indore		vs	Income Tax Officer -2 (1), Indore, Indore
Appellant:			Respondent
Appellant's Personal Information	Name / Designation of the Appellant (as applicable)		GRAND CONSULTING SERVICES PRIVATE LIMITED
	PAN (if available)		AADCG1729N
	TAN (if applicable)		
	Complete Address for sending notices		403 c 4th Floor, Gravity mall, 27, Mechanic Nagar, Bhamori
	State		Madhya Pradesh
	Pin Code		452001
	Phone No. with STD Code / Mobile No.		9826046463
Respondent's Personal Information	Email Address		ca_vtd_office@gmail.com
	Name / Designation of the Respondent (as applicable)		Income Tax Officer -2 (1), Indore
	PAN (if available)		
	TAN (if applicable)		
	Complete Address for sending notices		Income Tax Office Indore
	State		Madhya Pradesh
	Pin Code		452001
Appeal Details	Phone No. with STD Code / Mobile No.		
	Email Address		
	1. Assessment Year in connection with which the appeal is preferred		2012-2013
	2. Total income declared by the assessee for the assessment year referred to in item 1		Rs. 0
	3. Details of the order appealed against		
	a) Section and sub-section under which the order is passed		Section 250 of the Income Tax Act, 1961
	b) Date of order		11-Oct-2023
c) Date of service or communication of the order		15-Oct-2023	
4. Income-tax Authority passing the order appealed against		CIT (Appeals), NFAC, Delhi	
5. The State and District in which the jurisdictional Assessing Officer is located		State: Madhya Pradesh District: Indore	
6. Section and sub-section under which the original order is passed		Section 147/144 of the Income Tax Act, 1961	

Amounts disputed in appeal	7	If appeal relates to any assessment:—			
	a)	Total income as computed by the Assessing Officer for the assessment year referred to in item 1	Rs. 25,00,000		
	b)	Total amount of additions or disallowances made in the assessment	Rs. 25,00,000		
Grounds of Appeal	c)	Amount disputed in appeal	Rs. 25,00,000		
	8	If appeal relates to any penalty:—			
	a)	Total amount of penalty imposed as per order	Rs. 0		
	b)	Amount of penalty disputed in appeal	Rs. 0		
	9	If appeal relates to any other matter:—			
	a)	Amount disputed in appeal	Rs. 0		
Appeal Filing Details	10	Grounds of Appeal	Tax effect relating to each ground of appeal (see note below)		
	1	1. On the facts and in the circumstances of the case and in law, Ld. CIT(A) erred in not accepting the contention of the assessee that the ex-parte assessment order passed without service of proper notice to the assessee and in the name of a different entity is not a valid order.	1390500		
	2	2. On the facts and in the circumstances of the case and in law, Ld. CIT(A) erred in sustaining the addition of Rs. 25,00,000/- made by the Ld. AO on account of alleged bogus accommodation entries disregarding the facts of the case, patent deficiencies in the assessment order and explanations submitted by the appellant.	1390500		
	3	10. The Appellant craves leave to amend, alter, add or delete all or any of the above grounds of appeal.	0		
		Total Tax effect	Rs. 27,81,000		
Appeal Filing Details	11	Whether there is any delay in filing of appeal (if yes, please attach application seeking condonation of delay)	Rs. 0		
	12	Details of Appeal Fees Paid			
		BSR Code	Date of Payment	Sl. No.	Amount
		510002	12/12/2023	52098	Rs. 10,000

  
(Authorized Representative, if any)

Name: CA. ANILSH DARRIA  
Designation: A.R.

  
(Appellant)

Name: R. Shah  
Designation: Director


**Form of Verification**

I, **CA Manish Dafra, AR**, the appellant, do hereby declare that what is stated above is true to the best of my information and belief.

IP Address: 103.76.252.251

Date: 13/12/2023

Signature:  
Name:

  
CA Manish Dafra

Designation:

A.R.

4.2 Thus, it is clear that the form number 36 has not been verified by the person who is prescribed as per section 140 r.w. Rule 47(1) and Rule 45(3) of the Income Tax Rule 1962 and consequently the present appeal of the assessee is not valid appeal. Accordingly the appeal of the assessee is dismissed in limine being not a valid appeal. The assessee is at liberty to file a fresh valid appeal within a period of 30 days from this order.

5. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 09.05.2024.

**Sd/-**  
**(B.M. BIYANI)**  
Accountant Member

**Sd/-**  
**(VIJAY PAL RAO)**  
Judicial Member

**Indore, 09.05.2024**

**Patel/Sr. PS**

*Copies to:* (1) *The appellant*  
(2) *The respondent*  
(3) *CIT*  
(4) *CIT(A)*  
(5) *Departmental Representative*  
(6) *Guard File*

*By order*

*Sr. Private Secretary*  
*Income Tax Appellate Tribunal*  
*Indore Bench, Indore*