

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

**SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 82/MUM/2024
(Assessment Year: 2014-15)**

Bharat Harshadrai Booch,
53 Dhavalgiri SV Road,
Kandivali (West), Mumbai - 400067
[PAN: AABPB6122D]

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Appellant

**Income Tax Officer,
Ward 33(1)(2), Mumbai,**
Room No. 946, Kautilya Bhavan,
Avenue 3, Near Videsh Bhavan,
G-Block, BKC, Bandra (East),
Mumbai - 400051

Vs

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Respondent

Appearance

For the Appellant/Assessee : Ms. Kinjal Bhuta
For the Respondent/Department : Shri Ashok Kumar Ambastha

Date

Conclusion of hearing : 22.05.2024
Pronouncement of order : 29.05.2024

ORDER

Per Rahul Chaudhary, Judicial Member:

1. By way of the present appeal the Appellant has challenged the order, dated 06/11/2023, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'the CIT(A)'] for the Assessment Year 2014-15, whereby the Ld. CIT(A) had dismissed the appeal of the Assessee against the Assessment Order, dated 23/12/2019, passed under Section 143(3) read with Section 263 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

2. The Appellant has raised the following grounds of appeal:

- "1. *The Ld. Commissioner of Income Tax Appeals - NFAC erred in confirming the actions of the Assessing Officer in making an addition of Rs. 40,00,000/- under section 68 of the Income Tax Act, 1961 failing to appreciate that the assessment order passed under section 143(3) r.w.s. 264 of the Income Tax Act, 1961 does not contain the Document Identification Number (DIN) and an order without DIN is void in law and ought to be quashed.*
2. *The Ld. Commissioner of Income Tax Appeals-NFAC erred in dismissing the appeal on account of non-compliance without appreciating that the appellant had made submissions during the appeal proceedings. That such dismissal is arbitrary and irrational.*

Without Prejudice to the above, the Ld. Commissioner of Income Tax Appeals-NFAC ought to have considered the statement of facts and assessment records filed and passed the order on the merits of the case instead of dismissing the same.
3. *The Ld. Commissioner of Income Tax Appeals-NFAC erred in confirming the actions of the Assessing Officer in making an addition of Rs. 40,00,000/- under section 68 of the Income Tax Act, 1961.*
4. *The Ld. Commissioner of Income Tax Appeals-NFAC erred in confirming the actions of the Assessing Officer in making an addition of Rs. 40,00,000/- under section 68 of the Income Tax Act, 1961, without appreciating that the assessee had offered income as per presumptive taxation u/s. 44AD of the Income Tax Act, 1961, and that had not maintained any books of account.*
5. *All of the above grounds are without prejudice to each other. The appellant craves leave to add, amend, alter, or delete any of the above grounds of appeal."*

3. The relevant facts in brief are that the assessment was framed on the Appellant under Section 143(3) read with Section 263 of the Act on 23/12/2019. Being aggrieved, the Appellant preferred

appeal before CIT(A). By way of notice dated 15/01/2021, the hearing of appeal was fixed on 22/01/2021. However, the same could not be attended by the Appellant. In response, the subsequent notice for hearing, dated 05/07/2023, the Appellant moved an adjournment request on 11/07/2023 seeking time till 21/07/2023 to furnish the details/submissions. Thereafter, in response to notice of hearing, dated 14/07/2023, the Appellant filed written submissions on 25/07/2023 vide Acknowledgment No. 692657231250723 and thereafter, another submission, dated 25/07/2023, under Acknowledgement No. 695140191250723. The grievance of the Appellant was that the CIT(A) has disposed the appeal observing that the Appellant had neither filed any request for adjournment nor filed any submission in response to notice of hearing issued by the CIT(A). On perusal of record, we find that the averments made on behalf of the Appellant to be factually correct. The Appellant has placed on record (a) adjournment request filed by the Appellant (pages 6-11 of the paper-book), and (b) submission filed before the CIT(A)/NFAC along with paper book & acknowledgment of filing the submission, dated 25/07/2023, (pages 16-57 of the paper-book), and (c) screenshot of Income Tax Portal of Appellant showing submissions are viewed by CIT(A)/NFAC (page 58 of the paper-book). The Ld. Departmental Representative was not in a position to controvert the factual averments made by the Appellant which were supported by the documents on record. Since, the CIT(A) had decided the appeal without considering the submissions filed by the Appellant, we set aside the order, dated 06/11/2023, passed by the CIT(A) and restore the appeal before CIT(A) at its original number for denovo adjudication as per law after granting the Appellant reasonable opportunity of being heard. Thus, Ground

No. 2 raised by the Appellant is allowed while all other Grounds raised by the Appellant are dismissed as being infructuous.

4. In result, the present appeal preferred by the Assessee is treated as allowed for statistical purposes.

Order pronounced on 29.05.2024.

Sd/-
(Om Prakash Kant)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 29.05.2024
Alindra, PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT,
Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai