

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SMT. RENU JAUHARI, ACCOUNTANT MEMBER**

**ITA No.1115/Mum/2023
Assessment Year: 2013-2014
&
ITA No.1116/Mum/2023
Assessment Year: 2014-2015**

M/s. Bizznet Online Systems Pvt. Ltd. , 1 st Floor, Gulshan Villa, Oomer Park, Warden Road, Gowalia Tank, Mumbai - 400026 PAN: AABCB2432R	Vs.	ACIT Circle-1 6 th Floor, Ashar IT Park, Wagle Estate, Thane - 400604
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Bharat Gandhi, A.R.

Revenue by : Shri Nagnath Pasale, D.R.

Date of Hearing : 27 . 05 . 2024

Date of Pronouncement : 28 . 05 . 2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

These appeals have been preferred by the assessee against the order even dated 23.02.2023, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2013-14 & 2014-15.

2. The issues involved in both the appeals are identical and therefore for the sake of brevity the same were heard together and are being disposed of by this composite order, considering ITA No.1115/M/2023 as a lead case and result of the same shall apply mutatis mutandis to both the appeals under consideration.

3. In the instant case, the Assessing Officer (AO) vide assessment order dated 02.12.2016 under section 143(3) read with section 147 of the Act made the additions of Rs.9,37,500/- and Rs.8,880/- respectively on account of annual rent received/lettable value and income from other sources. The case of the assessee was reopened under section 147 of the Act. The assessee, being aggrieved with the reopening of the case as well as making the aforesaid additions, preferred first appeal before the Ld. Commissioner who vide impugned order not only affirmed the reopening of the case but also affirmed the additions of Rs.9,37,500/-, however, allowed the standard deduction @ 30% against rental income and accordingly directed the AO to recompute the income of the assessee. The assessee, being aggrieved, is in appeal before us.

4. We observe that the Hon'ble co-ordinate Bench of the Tribunal in the assessee's own cases for the A.Y. 2010-11 & 2011-12 in ITA No.1117, 1118 & 1113/M/2023 decided on 05.07.2023 has remanded/restored the appeals to the file of the Ld. Commissioner by concluding as under:

"09. We have carefully considered the rival contentions and perused the orders of the lower authorities. We find that the

assessee is a company engaged in the business of renting of property. For A.Y. 2011-12, the return of income was filed on 25th November, 2011, at ₹44,87,993/- During the course of assessment proceedings for A.Y. 2012-13, it was found that the rental income have been bifurcated by the assessee as income from other sources and income from house property. Against income from house property, the assessee has claimed standard deduction u/s 24 (a) of The Act at the rate of 30%. Against the income from other sources, the assessee has claimed deductions of several expenses. Therefore, the return of income which was earlier not scrutinized was reopened by issue of notice under Section 148 of the Act. Ultimately, the total income was considered as income from House Property and 30% deduction under Section 24 of the Act was granted and the assessment was framed at ₹74,91,240/- by assessment order under Section 143(3) read with section 147 of the Income-tax Act, 1961 (the Act) on 28th February, 2016.

010. Assessee preferred appeal before the learned CIT (A), which was delayed by 191 days. The reason of delay, it was explained is on account of health of the Director of the company supported by medical certificate and also ignorance of tax advisory, supported by certificate of tax advisor also. The learned CIT (A) considered it as not a 'sufficient cause' for condoning the delay. We find that the Hon'ble Supreme Court in case of Collector of land acquisition V MSt katiji (supra) has laid down certain principles and also stated that a liberal approach in condoning the delay should be adopted. The Hon'ble Supreme Court has also considered and reiterated all these principles in the three decisions cited before us of the Hon'ble Supreme Court. We find that the delay in filing of the appeal deserves to be condoned by the learned CIT (A). We are also conscious of the fact that the assessee is unable to explain the complete delay. Therefore, in the interest of justice, assessee is directed to pay ₹5,000/- as a cost for each of these three appeals to be deposited in 'Prime Minister National Relief Fund' within 30 days of the date of this order. Subject to the above, the delay in all these appeals, are condoned and matter is restored before the learned CIT (A) to decide all these three appeal in its merit. The assessee is further directed to furnish all the details before the learned CIT (A) on receipt of the notice of hearing. The learned CIT (A) after giving assessee an opportunity of hearing, if requested for, decide the issue in accordance with the law.”

5. Considering the peculiar facts and circumstances of the case, as the Hon'ble co-ordinate Bench of the Tribunal in the assessee's own case referred above, the has remanded the identical issue, as involved in the instant case, to the file of the Ld. Commissioner (Appeals) for decision afresh on merits, hence, by respectfully following the decision of Hon'ble Co-ordinate Bench, we are inclined to remand the instant appeal to the file of the Ld. Commissioner (Appeals) for decision afresh in line with the other appeals pending before it qua other assessment years as referred above.

6. Hence, the case is remanded accordingly.

7. In the result, both the appeals filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 28.05.2024.

Sd/-
(RENU JAUHARI)
ACCOUNTANT MEMBER

Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.