

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C', NEW DELHI**

Before Dr. B. R. R. Kumar, Accountant Member,

Sh. Anubhav Sharma, Judicial Member

ITA No. 3630/Del/2023 : Asstt. Year: 2011-12

KNS Infracon Pvt. Ltd., Pent House, 18 th Floor, Narain Manzil, 23, Barakhamba Road, Connaught Place, New Delhi-110001 (APPELLANT)	Vs	DCIT, Circle-14(2), New Delhi (RESPONDENT)
PAN No. AADCK4478J		

**Assessee by : Sh. Ruchesh Sinha, Adv.
Revenue by : Ms. Parul Singh, Sr. DR**

Date of Hearing: 19.06.2024

Date of Pronouncement: 21.06.2024

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of National Faceless Appeal Centre (NFAC), Delhi dated 25.10.2023.

2. Following grounds have been raised by the assessee:

"1. On the facts and in the circumstances of the case CIT(A) National Faceless Appeal Center (NFAC) has erred both on facts and in law in upholding the impugned order passed by the respondent illegally, violating the principles of natural justice, without fair and objective application of mind to the facts of the case and the law applicable and without being guided by the binding decisions of courts and tribunals and hence liable to be set aside and quashed and declared non est. in law.

2. On the facts and circumstances of the case, the learned Ld. CIT(A) National Faceless Appeal Center (NFAC) has erred, both on facts and in law, in dismissing the appeal of the assessee on account of noncompliance on the part of the assessee, whereas the assessee had moved an application for adjournment for notice dated 10.01.2020 and further the year 2020 and 2021

was a Covid Period. Further no notice dated 02.11.2022 was issued/served on the assessee.

3. On the facts and circumstances of the case, the learned Ld. CIT(A) National Faceless Appeal Center (NFAC) has erred, both on facts and in law, in dismissing the appeal of the assessee without discussing the case on the merits.

4. That the appellant denies its liability to be reassessed at total income of Rs 7,18,41,730/- as against returned loss of Rs 405193/- and accordingly denies its liability to pay tax, cess and interest demanded thereon.

5 (a) That having regard to the facts and circumstances of the case, learned Ld. CIT(A) National Faceless Appeal Center (NFAC) has dismissed the appeal on account of noncompliance without appreciating the facts that the Ld AO had erred in law and on facts in framing the impugned reassessment order and that too without assuming jurisdiction as per law and without complying with mandatory conditions u/s 147 to 151 as envisaged under the Income Tax Act, 1961.

(b) That having regard to the facts and circumstances of the case, learned Ld. CIT(A) National Faceless Appeal Center (NFAC) has dismissed the appeal on account of noncompliance without appreciating the facts that the Ld AO had erred in law and on facts in reopening the case on the basis of alleged 'Reasons' which are invalid and incorrect in the eyes of law and further erred in not complying with the entire procedure and conditions prescribed under the law for reopening of the assessment and framing of reassessment order.

(c) That having regard to the facts and circumstances of the case, learned Ld. CIT(A) National Faceless Appeal Center (NFAC) has dismissed the appeal on account of noncompliance without appreciating the facts that in any case and in any view of the matter, action of Ld AO in passing the impugned reassessment order u/s 147/143(3), is bad in law and against the facts and circumstances of the case.

6. (a) That having regard to the facts and circumstances of the case, learned Ld. CIT(A) National Faceless Appeal Center (NFAC) has dismissed the appeal on account of noncompliance without appreciating the facts that the Ld AO had erred in law and on facts in making aggregate addition of Rs 7,22,46,923/- on account of alleged bogus expenditure by treating it as alleged unexplained expenditure u/s 69C and that too by recording incorrect facts and findings and without observing the Principles of Natural Justice.

(b) That having regard to the facts and circumstances of the case, learned Ld. CIT(A) National Faceless Appeal Center

(NFAC) has dismissed the appeal on account of noncompliance without appreciating the facts that the action of Ld AO in making aggregate addition of Rs 7,22,46,923/- on account of alleged bogus expenditure u/s 69C, is bad in law against the facts and circumstances of the case and not sustainable on various legal and factual grounds.

7. That having regard to the facts and circumstances of the case, Ld AO has erred in law and on facts in charging interest u/s 2348 of the Income Tax Act, 1961."

3. The Assessing Officer made addition of Rs.7.22 Cr. against the returned income of Rs.4,05,193/- based on the information received from Serious Fraud Investigation Office (SFIO). The Assessing Officer has not examined the details of the payments made by the assessee company as per the information provided by the SFIO.

4. The Id. CIT(A) has also summarily dismissed the appeal of the assessee owing to non-compliance to the notices, without going into the merits of the case.

5. The Id. AR as well as the Id. DR fairly submitted that this is a fit case for examination of the matter in *toto* by the Assessing Officer. We hold that no prejudice would be caused to the revenue if an opportunity of being heard to the assessee, hence, the matter is being referred to the Assessing Officer to pass Assessment Order *de-novo*. The assessee shall not mis-use the opportunity given and shall comply to the notices issued by the revenue authorities promptly. The revenue shall invoke the relevant provisions of the Act in case of non-compliance by the assessee to the notices issued.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order Pronounced in the Open Court on 21/06/2024.

Sd/-

**(Anubhav Sharma)
Judicial Member**

Sd/-

**(Dr. B. R. R. Kumar)
Accountant Member**

Dated: 21/06/2024

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR