

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI

**BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**
ITA No. 4585/Mum/2023 (A.Y.2015-16)

Abhir Advertising Pvt. Ltd.

B-503, Silver Arch Building,
Unit-9, SSS PO CHS Opposite
Millant Nagar, Oshiwara,
Mumbai -400 053
PAN: AAMCA4882F

..... Appellant

Vs.

ACIT/NFAC Delhi

Delhi - 110001

..... Respondent

Appellant by	:	None
Respondent by	:	Shri Manoj Kumar Sinha, Ld. DR
Date of hearing	:	07/05/2024
Date of pronouncement	:	07/06/2024

ORDER

PER GAGAN GOYAL, A.M:

This appeal by assessee is directed against the order of National Faceless Appeal Centre (for short "NFAC") dated 27.10.2023 u/s. 250 of the Income Tax Act, 1961 (in short 'the Act') for A.Y. 2015-16. The assessee has raised the following grounds of appeal:-

01. On the facts and in the circumstances of the case, the Id. CIT-Appeals has erred in deciding the Appeal ex-parte without providing adequate, fair & meaningful opportunity which is against the principles of natural justice. The date fixed for hearing i.e. 20.10.2023, was in pursuance of only Second Notice issued by the Id. CIT-Appeals to the Appellant, which could not be seen on ITBA by Tax Consultants of the Appellant.

02. While adjudicating the impugned Appeal, the Id. CIT-Appeals has not dealt with each and every Grounds of Appeal presented before him by way of a speaking Order and instead he has sustained the addition by way of summarily rejecting all Grounds of Appeal, which is absolutely arbitrary, baseless and unlawful.

03. That on the facts and circumstances of the case, Hon'ble CIT-Appeals has erred on facts and in law in sustaining the Addition of Rs 1, 93,05,000/- proposed by the Id. A.O. on account of not proving the Source of Income of Rs. 1,93,05,000/- under the head, Income from Other Sources u/s 69 of The Income Tax Act, 1961. Therefore, above Addition of Rs. 1, 93, 05,000/- deserves to be deleted.

04. Notwithstanding and without prejudice to the above, on the facts and in the circumstances of the case, following addition made by the Id. A.O. and sustained by the Hon'ble CIT-Appeals, NFAC, Delhi by way of an Ex-parte Order is arbitrary, contrary to facts on record and therefore unlawful:

Income Returned	Rs. 3, 98,800.00
Income Assessed	Rs. 1, 97, 03,800.00

(Addition of Rs. 1, 93, 05,000/- on Account of not proving Source of Income under the head Income from Other Sources)

05. The Id. CIT-Appeal has ignored and overlooked to individually consider following Grounds of Appeal forming part of Form 35 presented before him for adjudication:

a) That the appellant is a Private Limited Co. which maintains regular books of accounts on day to day basis. These books are supported by bills & vouchers and duly audited by Chartered Accountants without any adverse comments of the auditors. According to these books of accounts, appellants profit for the year 2015-16 is Rs. 3.98 lakhs which has been disclosed in the ITR filed on dated 24.02.2017 u/s 139(1) and dated 26.03.2022 u/s 148 and paid the taxes thereon. Learned AO has not rejected the books of appellant. Therefore, his act of acceptance of the books of accounts on one hand and rejecting the results declared by it on the other indicates paradoxical approach and confused state of mind of the Id. AO. Hence addition may please be deleted.

b) That the Id. AO's presumption of having extended an unsecured loan of Rs 1, 93, 5000/- out of income generated by the appellant company is absolutely baseless and unfounded. Factually, he has made the addition of above amount in the hands of the appellant on the basis of his doubts and surmises which has no legs to stand on.

c) That the Id. AO has ignored to provide the copy of reasons recorded while reopening the assessment u/s. 147 r.w.s. 148 and enabling appellant to raise objections against reopening. This inaction of the Id. AO has vitiated the assessment proceedings and rendered the same unlawful.

d) That on the facts & in the circumstances of the case & in law, levy of interest u/s. 234A 234B & 234C is illegal and unsustainable in law and, therefore, be cancelled.

06. The appellant craves leave to add or amend any other Grounds of Appeal at the time of hearing.

2. The brief facts of the case are that the assessee company filed its return of income 24.02.2017 declaring total income at Rs. 3,98,800/-. Thereafter, information was received from the office of ITO ward 3(2), Bhopal that the assessee has given loan of Rs. 1, 93, 05,000/- to Smt. Fauzia Arshi (Director of the assessee company, i.e. M/s. Abhir Advertising Pvt. Ltd.) during the F.Y. 2014-15 relevant to the current assessment year. As per AO, this was the income of the assessee company which was not included in the return filed by the assessee, hence a notice u/s. 148 of the Act was issued on 31.03.2021 and assessee was asked to file a return u/s. 148 of the Act. Further notices u/s. 142(1) of the Act were issued to the assessee alongwith questionnaire vide dated 30.11.2021, 17.12.2021, 25.02.2022, 28.02.2022 and 04.03.2022.

3. A final show cause notice was issued on 08.03.2022 asking why the assessment proceedings should not be completed against the assessee treating Rs. 1, 93, 05,000/- as income taxable in the hands of the assessee. As the assessee neither filed any return of income nor any reply to the query raised, the assessment was completed ex-parte u/s. 144 r.w.s. 147 and 144B of the Act and Rs. 1,93,05,000/- treated as unexplained u/s. 69 of the Act. The Assessee being aggrieved with the order of AO preferred an appeal before the Ld. CIT (A) who in

turn dismissed the appeal of the assessee again ex-parte as there was no compliance by the assessee. The assessee felt aggrieved with this order passed by the Ld. CIT (A) preferred the present appeal before us.

4. We have gone through the order of AO, order of the Ld. CIT (A) and submissions of the assessee alongwith the grounds raised before us. It is observed that assessee filed appeal before us on 05.12.2023 and the first date of hearing before us was 07.05.2024 and none appeared before us and no adjournment letter is filed before us. Without going into the merits of the case, one thing can be ascertained about the assessee that the approach of the assessee in complying with the notices issued at all stages is so casual and looks to be non-serious in pursuing the matter under consideration. We have gone through the grounds of appeal taken before us, it is simply a sheet of allegations without any corroborative evidence and a blame game document, which is not going to help the assessee.

5. Considering the overall behaviour and conduct of the assessee, we find that assessee is not interested in proper prosecution of the matter before any forum, hence we deem it fit to dismiss the appeal without any consequential comments on the matter. Although by this order, we still leave a room for the assessee to revive the matter by filing M.A. in due course.

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

Order pronounced in the open court on 7th day of June, 2024.

Sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Sd/-

(GAGAN GOYAL)
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 07/06/2024

Dhananjay, Sr. PS

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai