

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

**BEFORE SHRI G. S. PANNU, VICE PRESIDENT AND  
MS. MADHUMITA ROY, JUDICIAL MEMBER**

**I.T.A. No. 3730/Del/2023  
(Assessment Year: 2018-19)**

Insat Exports Pvt. Ltd. C/o C.S. Anand, Advocate 104 Pankaj Tower, 10 LSC, Savita Vihar, Delhi – 110 092	Vs.	DCIT Circle – 10(1) New Delhi
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**PAN: AAACI 2250 D**

**(Appellant) .. (Respondent)**

**Appellant by : Shri C. S. Anand, Adv.  
Respondent by : Shri T. James Singson, CIT-D.R.**

**Date of Hearing : 26.06.2024  
Date of Pronouncement : 08.07.2024**

ORDER

**PER MS. MADHUMITA ROY – JUDICIAL MEMBER :**

The instant appeal filed by the assessee is directed against the order dated 25.10.2023 passed by the Learned Commissioner of Income Tax (Appeals) – National Faceless Appeal Centre (NFAC), Delhi under Section 250 of the Income Tax Act, 1961 (hereinafter referred as to 'the Act') arising out of the order dated 16.04.2021 by the National e-Assessment Centre, Delhi under Section 143(3) read with Sections 143(3A) & 143(3B) of the Act whereby and whereunder, the addition to

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the tune of Rs.13,38,26,125/- made under Section 69 read with Section 115BBE of the Act on account of excess import made by the assessee has been confirmed for A.Y. 2018-19.

2. The brief fact leading to this case is this that the assessee is in the business of making Export-Import purchases and sales of gold jewellery, filed its return of income declaring total income at Rs.3,95,73,000/- for the year under consideration. The assessee maintained the books of accounts i.e. Cash Book, Bank Book, Ledger, Sales Register, Purchase Register and the accounts are audited by registered firm of chartered accountants. On the basis of the tax audit report for F.Y. 2017-18 and Audited Financial Statements, the return was filed by the assessee. However, the case was selected for limited scrutiny assessment. It is gathered from the chart of CBEC data for F.Y. 2017-18, invoice value of imports made by the assessee was of Rs.2,58,79,92,372/- against purchase of Rs.2,38,54,66,247/- as reflected in the ITR. The difference between the two became Rs.20,25,26,125/-. The assessee clarified the same in response to the notice issued under Section 142(1) of the Act dated 14.12.2020 in order to reconcile the disparity with supporting evidences. Difference of Rs.6.87 crores was due to loading charges, handling fees and deviation in tariff value, deduction of custom authorities. So far as the CBEC export and import summery data is concerned, the assessee clarified the same in the following manner :

- a) *against Rs. 8,44,05,001/- being the Assessable Value-Post Assessment and second time in the 17th row against Rs. 5,71,00,745/- being the Assessable Value-Post Assessment);*

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- b) *there was double reporting of the figure of Rs. 13,81,43,824/- (first time in the 10th row against Rs. 7,84,15,695/- being the Assessable Value-Post Assessment and second time in the 11th row against Rs. 6,11,09,567/- being the Assessable Value- Post Assessment); and*
- c) *one purchase transaction having Assessable Value-Post Assessment of Rs. 12,13,75,310/- was either not reported by CBEC or missed out by the learned officer of the NeAC/ NeFAC.*

3. In that view of the matter, the correct total amount of 8<sup>th</sup> column (Assessable Value Post Assessment) was Rs.2,45,42,16,596/- (Rs.2,33,28,41,286/- plus Rs.12,13,75,310/-). After deducting the amount of custom charges etc of Rs. 6,87,50,340/- out of such total amount of Rs.2,45,42,16,596/-, the net figure of purchases was worked out at Rs.2,38,54,66,256/- (as declared by the assessee in its P & L Account).

4. However, such plea of the assessee was not found acceptable and excess imports to the tune of Rs.13,38,26,125/- was added to the total income of the assessee under Section 69 of the Act. The working of the same made by the Learned AO of NeAC/NeFAC is as follows:

<i>As per Assessment Order (Based upon the data extracted from CBEC' reporting)</i>	<i>2,58,79,92,372</i>
<i>Less : As shown by the assessee</i>	<i>2,38,54,66,247</i>
<i>Difference</i>	<i>20,25,26,125</i>
<i>Less : Custom Charges</i>	<i>6,87,00,000</i>
<i>Balance</i>	<i>13,38,26,125</i>

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5. Though the said discrepancy was attempted to be reconciled by the assessee even before the authorities below, the Learned CIT(A) was of the opinion that the assessee was not been able to conclusively prove that the figure that was shown in the import export summary data was wrong. Further that the appellant has not been able to prove conclusively with details submitted are only duplicate copies of invoices and how they are reflected in the audit report. Neither details submitted to prove his points from CBEC data which was a sister department and the authenticity of the same cannot be questioned until or unless the appellant provides any conclusive proof of the same. In the absence of which, the addition made by the Learned AO was further confirmed. Hence, the instant appeal before us.

6. At the time of the hearing of the instant appeal, the Learned Counsel appearing for the appellant submitted before us that the appellant though submitted before the authorities below the evidences to prove that there is no difference in invoice value of import made by the assessee with the data reflected in the ITR, the same was not considered in its proper prospective and hence, a further opportunity be given to the assessee to reconcile the discrepancy with supporting evidences before the Learned AO which has not been objected by the Learned DR with all his fairness.

7. Hence, having regard to the facts and circumstances of the case in order to prevent the miscarriage of justice, we find it fit and proper to

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remit the issue to the file of the AO with a direction upon him to consider the issue afresh upon considering the evidence on record or any other evidence which the assessee may choose to file at the time of hearing of the matter in order to reconcile the difference in purchase as per ITR/Books and as per CBEC data. The Learned AO is further directed to grant an opportunity of being heard to the assessee and to pass a reasoned order strictly in accordance with law.

8. In the result, appeal of the assessee is allowed for statistical purposes.

**This Order pronounced in Open Court on 08/07/2024**

Sd/-  
(G. S. PANNU)  
VICE PRESIDENT

Sd/-  
(Ms. MADHUMITA ROY)  
JUDICIAL MEMBER

Dated 08/07/2024

*Priti Yadav, Sr.PS\**

**Copy forwarded to:**

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI