

**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, MUMBAI**

**BEFORE SHRI PRASHANT MAHARISHI, AM**

**ITA No. 4183/Mum/2023**  
(Assessment Year: 2014-15)

Bhagwan Computronics Private Limited 1005, Raheja Centre, Nariman Point, Mumbai-400 021 (Appellant)	Vs.	The Assistant Commissioner of Income tax Room No. 666, 6 <sup>th</sup> floor, Aaykar Bhavan, Mumbai-400 020 (Respondent)
<b>PAN No. AAATT3440K</b>		

**Assessee by** : Ms. Dinkle H. Hariya, Advocate  
**Revenue by** : Shri R.R. Makwana, DR

**Date of hearing:** 13.06.2024  
**Date of pronouncement :** 08.07.2024

**ORDER**

**PER PRASHANT MAHARISHI, AM:**

01. ITA No.4183/Mum/2023, is filed by Bhagwan Computronics Private Ltd. [ Assessee/ Appellant] for A.Y. 2014-15 against the order of the National Faceless Appeal Centre, Delhi [the learned CIT (A)] dated 22<sup>nd</sup> September, 2023, wherein the appeal filed by the assessee against the reassessment order dated 15<sup>th</sup> March, 2022 passed by The National faceless Assessment Center under Section 147 read with section 144B of the Income-tax Act, 1961 (the Act), was dismissed.
02. Assessee is in appeal raising several grounds of appeal. However, the only grievance is the addition of ₹45,09,984/- made to the total income of the assessee under Section 68 of the Act confirmed by the learned Commissioner of Income-tax (Appeals).
03. The brief fact of the case shows that assessee is a company filed return of income on 8<sup>th</sup>September 2014, at ₹ nil. It was found that the assessee has shown

transaction of ₹45,09,984/- on account of share trading alleging that the assessee was beneficiary of misutilization of client code modification.

04. Notice under Section 147 of the Act was issued on 31<sup>st</sup> March 2021. According to the learned Assessing Officer information was received from the Dy. Director of Income Tax, on 30<sup>th</sup> May 2019, that assessee was one of the beneficiaries of mis-utilization of client code modification by its broker amounting to ₹45,09,984/-. The assessee was issued several notices and a final show cause notice was issued on 7<sup>th</sup> March, 2022, and assessee replied that these transactions were conducted through banking channel as per the due procedure laid down by SEBI.
05. The learned Assessing Officer on the basis of the investigation note has held that the transaction made by the assessee is bogus and therefore, the total transaction of ₹45,09,985/- was added under Section 68 of the Act by reassessment order dated 15<sup>th</sup> March 2022.
06. The assessee preferred the appeal before the learned CIT (A), wherein three opportunities were given to the assessee, which were not complied with, and the appeal of the assessee was dismissed.
07. The assessee is in appeal before us stated that identical issue in case of the assessee for A.Y. 2013-14, in ITA No.4184/Mum/2023, was decided on 23<sup>rd</sup> April, 2024, wherein as per paragraph no.5 of the appellate order, appeal of the assessee was allowed for statistical purposes and matter was restored to the file of the learned CIT (A) for disposal of the appeal in accordance with the law.
08. The learned Departmental Representative vehemently supported the order of the lower authorities and submitted that assessee has failed to comply with the notices and therefore, the assessee should not be given one more opportunity.
09. We have carefully considered the rival contentions and perused the orders of the lower authorities. We find that on identical facts in ITA No.4184/Mum/2023 for A.Y. 2013-14, by order dated 23<sup>rd</sup> April 2024, the co-ordinate Bench in paragraph no.5 has restored the issue back to the file of the learned CIT (A) for disposal according to the law, after giving an opportunity of hearing to the



assessee. In view of the identical facts, respectfully following the decision of the co-ordinate Bench we also restore the appeal back to the file of the learned CIT (A) for disposal of the appeal on merit.

010. We fully agree with the ld. DR that no further opportunity should be given to assessee as ld. CIT (A) has granted sufficient opportunities to assessee, but some were not availed. The appeal of each assessment year should be dealt with on the facts and circumstances of the case of the assessee in that appeal. But here on identical fact and circumstance the ITAT has directed ld. CIT (A) to decide the issue. If we decide the issue here, the set aside by earlier ITAT order would be negated.

011. Accordingly, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 08.07.2024.

Sd/  
(PRASHANT MAHARISHI)  
(ACCOUNTANT MEMBER)

Mumbai, Dated: 08.07.2024

*Sudip Sarkar, Sr.PS*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Mumbai