

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH  
MUMBAI**

**BEFORE: SHRI BR BASKARAN, ACCOUNTANT MEMBER  
&  
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 1725/MUM/2024  
(Assessment Year : 2015-16)**

Parin Engineers 2/4, Kanchan Industrial Estate, Andheri kurla road, Mumbai-400072.	Vs.	Ward 27(2)(1) Station tower, Vashi, Navi Mumbai, Mumbai-400703.
<b>PAN/GIR No. AACFP3080D</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri. Mehul Shah
Revenue by	Shri. H.M. Bhatt (SR. DR.)
<b>Date of Hearing</b>	<b>24/06/2024</b>
<b>Date of Pronouncement</b>	<b>11/07/2024</b>

**आदेश / O R D E R**

**PER SUNIL KUMAR SINGH (J.M):**

1. This appeal has been preferred against the impugned order dated 14.02.2024 passed in Appeal no. NFAC/2014-15-/10165110 by the Ld. Commissioner of Income-tax(Appeals)/ National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment year [A.Y.] 2015-16, wherein learned CIT(A) partly allowed assessee's appeal by restricting estimated

profit from 27.41% to 12% of assessee's turnover of Rs. 2,09,31,870/.

2. The brief facts related to the appeal state that, assessee, a partnership firm, did not file return of its income for A.Y. 2015-16. On the basis of the information available with the revenue department, it was noticed that the assessee had entered into the transaction vide bill of entry of import to the tune of Rs. 52,01,172/- and shipping bill for export of value of Rs. 2,01,81,870/- and also in contract receipt on which TDS of Rs. 15,000/- was deducted during the year under consideration. The case was reopened u/s. 147 of the Act after recording reasons and obtaining necessary approval from the competent authority. In response to the notice dated 26.03.2021 issued u/s. 148 of the Act, assessee filed a letter informing that the firm was dissolved on 01.04.2007 and Smt. Anju Tolia became the sole proprietor on the said dissolution. The copy of dissolution deed dated 12.04.2007 was also submitted before the assessing officer. The assessee, neither filed any return of income in response to the notice u/s. 148 of the Act nor responded to the notice dated 11.02.2022 issued u/s. 142(1) of the Act. It was also noticed by the assessing officer that the PAN number of the firm was still used in financial transactions during the year under consideration. Smt. Anju Tolia, Prop. of M/s. Parin Engineers, vide letter dated 17.03.2022, submitted reply stating that after dissolution of the firm, Smt. Anju Ashok Tolia, having PAN no. ACFPT9834Q continued as a proprietorship concern since 01.04.2007. It was further stated that the imports in

the F.Y. 2014–15, were made by Smt. Anju Tolia in her proprietorship concern. However, IEC number of M/s. Parin Engineers (partnership firm) was inadvertently used in few imports. Further submitted P&L A/c of M/s. Parin Engineer (Prop. Anju Tolia), reflecting import transactions made using IEC number of M/s. Parin Engineers (partnership firm) and import ledger of M/s. Parin Engineers (Prop. Anju Tolia). Learned Assessing Officer found that the reply was not supported by proper documentary evidence like bank statement, copies of bills, etc. Hence, on the basis of the shipping bills for exports, contract receipts from M/s. NHB Ball & Roller Ltd, etc. Calculated the turnover of Rs. 2,09,31,870/- and gross profit was estimated @ 27.41% of the turnover of the GP as shown by the proprietary concern and worked out as Rs. 57,37,425/-. The same was added in the total income of the assessee under the head income from business and profession. Simultaneously, penalty proceedings u/s. 271(1)(C) of the Act, for concealment of income and penalty proceeding u/s. 271F of the Act for failing to file the return of income for A.Y. 2015–16 were separately initiated.

3. Aggrieved by the assessment order, assessee filed the appeal before learned CIT(A), who confirmed the additions made by assessing officer but reduced the profit margin from @27.41% to 12% of the total turnover.
4. Aggrieved by the impugned order passed by learned CIT(A), appellant has filed this appeal on the following grounds:

*“1. On the facts, and in circumstances of the case, and in law, learned Commissioner of Income-tax (Appeal), NFAC erred in not appreciating that the reassessment proceedings*

*were bad in law as the Assessing Officer did not provide reasons recorded for reopening of assessment proceedings.*

*2. On the facts, and in circumstances of the case, and in law, learned Commissioner of Income-tax (Appeal), NFAC erred in not appreciating that, the Assessing Officer made assessment on a firm that was already dissolved way back in the year 2007, and the Assessing Officer had intimation dated October 20, 2020 of the said dissolution which was much prior to the date of initiation of reassessment proceedings.*

*3. On the facts, and in circumstances of the case, and in law, learned Commissioner of Income-tax (Appeal) erred in partly upholding action of the Assessing Officer by restricting the addition to 12% (against 27.41% made by the Assessing Officer) of the value of alleged transactions carried out by the firm and upholding addition to the extent of RS. 2,511,825 without appreciating that, these transactions were already recorded in books of account and return of income of the proprietary concern of Parin Engineers owned by Smt. Anju Tolia, partner of the erstwhile firm and, while undertaking the said transactions, Import Export Code and PAN of the Partnership Firm were inadvertently used which was proved with documentary evidence, and therefore, there was no reason for the Assessing Officer to raise any adverse inference in this regard.....”*

5. In response to the notice issued by the tribunal, learned DR appeared and participated in the proceedings.
6. We have perused the records and heard learned representatives for both the parties.
7. On perusal of impugned order dated 14.02.2024 passed by the learned CIT(A), we find that learned First Appellate Authority has passed impugned order by stating that Smt. Anju Tolia did not file any documentary evidence to establish the fact that the PAN of the partnership firm existing till 01.04.2007, was inadvertently used. No reason and decision on merit in respect of the fact related to the legal consequences to the said dissolution of the then existing partnership firm, has been given. The entries of various transactions made by using IEC number of M/s. Parin Engineers (partnership firm) and import ledger of M/s. Parin Engineers (Prop. Anju Tolia), have also not been discussed so as to avoid possibility of double taxation.

Assessing Officer has also not taken care of the aforesaid facts despite dissolution deed, having been submitted by assessee before him. In the facts and circumstances of the case and to put an end to further litigation, we deem it just, fair and reasonable to restore the matter back to the file of learned assessing officer who will pass speaking order on merit after judiciously taking all facts into consideration afresh in accordance with law. If the various import details, on verification, are found genuine, the credit of the same be given to the assessee. The appellant is directed to submit the required bank statements, copies of bills or other relevant details before assessing officer within one months from the date of order & to cooperate in the proceedings before the learned assessing officer. It is needless to say that the assessing officer shall ensure substantial compliance of the principles of natural justice.

8. In the result, the appeal is allowed. The impugned order dated 14.02.2024 and assessment order dated 30.03.2022 are set aside. The case is restored back to the file of the learned Assessing Officer for statistical purposes.

Order pronounced on 11.07.2024.

**Sd/-**

**(BR BASKARAN)**

**ACCOUNTANT MEMBER**

Mumbai; Dated 11/07/2024

Anandi Nambi, *Steno*

**Sd/-**

**(SUNIL KUMAR SINGH)**

**JUDICIAL MEMBER**

**Copy of the Order forwarded to:**

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

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**