

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

**ITA No.904/Mum/2024
(Assessment Year :2014-15)**

M/s. Thomas Cook (India) Limited Thomas Cook Building Dr. D.N.Road Fort, Mumbai	Vs.	Commissioner or Income Tax(Appeals) National Faceless Appeal Centre (NFAC) Delhi
PAN/GIR No. AA ACT4050C		
(Appellant)	..	(Respondent)

Assessee by	Shri Abdul Kadir Jawadwala
Revenue by	Shri P.D. Chougule
Date of Hearing	04/07/2024
Date of Pronouncement	11/07/2024

आदेश / ORDER

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 04/01/2024 passed by NFAC, Delhi for the quantum of assessment passed u/s.147 r.w.s. 144B for the A.Y.2014-15.

2. The only grievance of the assessee which has been raised in the grounds of appeal are that the ld.AO while computing the income has taken a figure of income assessed u/s.143(3) r.w.s. 263 at Rs.88,37,57,830/- is incorrect and erroneous. The

computation in the impugned assessment order is reproduced hereunder:-

Income assessed u/s 143(3) r.w.s 263	Rs 88,37,57,830/-
Book profit u/s 115JB as per order u/s 143(3) r.w.s	Rs 84,78,01,372/-
Addition of Rs.2,77,55,744/- as disallowed above	Rs 2,77,55,744/-
Addition of Rs. 77,59,923 as disallowed above	Rs 77,59,923/-
Assessed Income	Rs 91,92,73,497/-
Book profit u/s 115JB	Rs 84,78,01,372/-

3. Before us, ld. Counsel pointed out that in this case assessee has filed its return of income for A.Y.2014-15 on 20/11/2014 declaring income of Rs.63,44,60,730/- under the normal provisions of the Act and book profit of Rs.78,64,61,090/-. The variation was only due to disallowance of Section 14A which ld. CIT(A) vide order dated 04/01/2024 has partly allowed. In the re-assessment order u/s147, ld. AO has made addition of Rs.2,77,55,744/- and Rs.77,59,923/-. However, erroneously he has taken income assessed u/s.143(3) r.w.s. 263 at Rs.88,37,57,830/- and similar amount has been taken for the book profit u/s.115JB at Rs.84,78,01,372/-. He pointed out that in this year there was no order passed u/s.263 nor any

assessment order was passed in pursuance of any order u/s 263. Albeit, there was an order u/s.263 for the A.Y.2012-13 and in pursuance thereof order u/s.143(3) / 263 was passed on 22/12/2018 wherein the income was assessed at Rs.88,37,57,830/- under normal provisions and book profit of Rs. 84,78,01,372/-. Thus, ld. AO had erroneously picked up the figure of assessed income of A.Y.2012-13 passed u/s.143(3) / 263 resulting into creation of huge demand for the present assessment year. This fact was also brought to the knowledge of the ld. CIT(A), who had observed as under:-

“In this ground of appeal, the appellant has agitated against the action of the AO in considering the income assessed under section 143(3) r.w.s 263 of the Act. It has been pleaded that the Appellant has no knowledge of such assessment proceedings under section 143(3) read with section 263 of the Income Tax Act, nor did get any opportunity to present the case for the proceedings under section 143(3) read with section 263 of the Income Tax Act. The said order is clearly mentioned by the Assessing Officer on page 1 of the assessment order. It is up to the Assessee to trace this order and file appeal against it if it is so desired. The subject matter of that order cannot be adjudicated in this appeal. Accordingly, the ground of appeal no. 3 is dismissed.”

4. After considering the aforesaid facts and material placed on record, it appears that ld. AO has made a blatant error by taking the figure of assessed income for A.Y.2012-13 u/s.143(3) /263, instead of taking the figure of computation of income done in the original assessment u/s.143(3), wherein assessee was given

partial relief. In fact the assessed income u/s. 143(3) will also get slightly reduced. This grievance should have been addressed by the Ld. CIT (A), who also adopted such callous approach in dismissing the appeal instead of directing the AO to rectify and thereby dragging the assessee to file second appeal for such a lapse committed by the AO. Accordingly, ld. AO is directed to correct the final assessed income for A.Y.2014-15 after giving effect of the ld. CIT (A) order while computing the income for A.Y.2014-15. In so far as addition deleted by the ld. CIT (A) there is no dispute and the only dispute is with regard to erroneous and incorrect figures of the assessed income taken by the AO. Accordingly, Ld. AO is directed to rectify the same.

5. In the result, appeal of the assessee is allowed.

Order pronounced on 11th July, 2024.

Sd/-
(GAGAN GOYAL)
ACCOUNTANT MEMBER

Mumbai; Dated 11/07/2024
KARUNA, *sr.ps*

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

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//

(Asstt.
Registrar)
ITAT, Mumbai