

**IN THE INCOME TAX APPELLATE TRIBUNAL "I" BENCH, MUMBAI**

BEFORE SHRI PRASHANT MAHARISHI, AM  
AND  
SHRI SUNIL KUMAR SINGH, JM

**ITA No. 825/Mum/2024**  
(Assessment Year: 2017-18)

**ITA No. 824/Mum/2024**  
(Assessment Year: 2018-19)

**ITA No. 823/Mum/2024**  
(Assessment Year: 2021-22)

**ITA No. 826/Mum/2024**  
(Assessment Year: 2015-16)

**ITA No. 827/Mum/2024**  
(Assessment Year: 2014-15)

**ITA No. 828/Mum/2024**  
(Assessment Year: 2013-14)

Bank of Bahrain and Kuwait  
B.S.C.  
Ground Floor, Jolly Chambers  
Maker-II, 225, Nariman  
Point,  
Mumbai-400 021  
**(Appellant)**

The Dy. Commissioner of  
Income-tax (International  
taxation), Circle 1(2)(1)  
Room No.1811, 18<sup>th</sup> Floor,  
Air India Building, Nariman  
Point, Mumbai-400 021  
**(Respondent)**

**PAN No. AAACB2140F**

**Assessee by** : Shri Ketan Ved/ Abdulkadir  
Jawadwala, ARs  
**Revenue by** : Shri Anil Sant, Add. CIT DR

**Date of hearing:** 22.07.2024  
**Date of pronouncement** 24.07.2024  
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**ORDER**

**PER BENCH :**

01. These six appeals have been filed by the assessee captioned above for respective years.
02. ITA for A.Y. 2017-18, 2018-19 and A.Y. 2021-22, assessee has filed declaration under Section 158A (1) of the Income-tax Act, 1961 (the Act) by filing form no. 8A stating that identical question of law is pending before the Hon'ble High Court in case of the assessee for A.Y. 2002-03 along with several other assessment years, therefore, these appeals may be blocked to be decided in accordance with Section 158A of the Act. The learned AR stated that in that case, whatever may be the decision of the Hon'ble High Court will apply in the case of the assessee for these assessment years.
03. The Id DR also perused form no 8A and agreed that provision of section 158A are applicable in This case.
04. In view of the above facts, we restore the appeal for A.Y. 2017-18, 2018-19 and 2021-22, to the file of the learned Assessing Officer by admitting the claim of the assessee in terms of Section 158A(3) of the Act and direct the learned Assessing Officer to apply the decision on the question of law as soon as it becomes final.
05. In the result, all these three appeals are disposed off with above directions.
06. ITA No. 828/Mum/2024 is filed by the assessee for A.Y. 2013-14, against the appellate order passed by the learned Commissioner of Income-tax (Appeals)-55, Mumbai [the learned CIT (A)] dated 28<sup>th</sup> December, 2023, wherein as per Para no.15 of the appellate order assessee was given 14 opportunities. The assessee either did not reply or merely filed adjournment letters and accordingly, the

appeal of the assessee was partly allowed by ex parte orders. Therefore, the assessee is in appeal.

07. Similarly, for A.Y. 2015-16, the assessee has filed against the appellate order passed by learned CIT (A)-55, Mumbai dated 28<sup>th</sup> December, 2023, wherein despite 14 opportunities, none appeared on behalf of the assessee or merely filed an adjournment request. The learned CIT (A) partly allowed the appeal of the assessee. Assessee is aggrieved and is in appeal.
08. For A.Y. 2014-15, assessee has filed an appeal against the order of the learned CIT (A) of even date wherein the appeal filed by the assessee was disposed off by partly allowing the claim as assessee did not appear before him.
09. The assessee is aggrieved with the appellate orders. In all these three appeals, the first ground raised by the assessee is that the learned CIT (A) has dismissed the appeal of the assessee, ex-parte without adjudicating the issues on merit and therefore, deserves to be stuck down.
010. The learned Authorized Representative submitted that the assessee deserves an opportunity of hearing before the learned Commissioner of Income-tax (Appeals).
011. The learned Departmental Representative submitted that assessee has been given enough opportunity but has not appeared before the learned CIT (A) and therefore, the learned CIT (A) has disposed the appeal of the assessee on the basis of the facts available on record.
012. We have carefully considered the rival contentions and perused the orders of the learned CIT (A). We find that for A.Y. 2013-14, the assessee was given 14 opportunities on 8 occasions, assessee sought an adjournment and on balance occasion no reply was

furnished. The learned CIT (A), who disposed off the appeals of the assessee for A.Y. 2017-18, 2018-19 and 2021-22, held that assessee did not pursue the appeal for A.Y. 2013-14, 2014-15 and 2015-16. Before us also there is no explanation forthcoming that why assessee behaved in a manner which is not comprehensible. However, the learned CIT (A) has also decided the ground no.1 of the appeal for A.Y. 2013-14 without discussing the merits of the case. Admittedly, ground no.1 for A.Y. 2013-14 assessee was not heard. Similarly, ground no.1 for A.Y. 2014-15 and ground no.1 for A.Y. 2015-16 are not decided on the merits of the case.

013. In view of this, these appeals for AY 2013-14, 2014-15 and 2105-16 are restored back to the file of the learned CIT (A) with a direction to the assessee to make submission within 90 days from the date of this order or within 15 days from the date of receipt of the notices of hearing from the learned CIT (A), whichever is earlier. Then the learned CIT (A) may decide the issue on the merits of the case. . Accordingly, these three appeals are allowed for statistical purposes.

014. In the result, all these six appeals of tea assessee are allowed for statistical purposes.

Order pronounced in the open court on 24.07. 2024.

Sd/-  
(SUNIL KUMAR SINGH)  
(JUDICIAL MEMBER)

Sd/-  
(PRASHANT MAHARISHI)  
(ACCOUNTANT MEMBER)

Mumbai, Dated: 24.07. 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.

True Copy//

BY ORDER,

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