

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "K (SMC)", MUMBAI

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A No.1854/Mum/2024
(Assessment year 2018-19)**

Neobags Overseas Private Limited, 601, Thacker Apartment, CD Barfiwala Marg, Andheri West, Mumbai-400 058 PAN :AACCN5616L	vs	National e-Assessment Centre, Delhi
APPELLANT		RESPONDENT

Assessee by : Shri Prakash Jotwani
Respondent by : ShriDhiraj Kumar, SR.DR.
Date of hearing : 16/07/2024
Date of pronouncement : 25/ 07/2024

ORDER

PER ANIKESH BANERJEE, J.M:

The instant appeal of the assessee was filed against the order of the National Faceless Appeal Centre, Delhi (NFAC)[for brevity, 'Ld.CIT(A)'] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), for Assessment Year 2018-19, date of order 16.02.2024.The impugned order was emanated from the order of the National e-Assessment Centre, Delhi (in short, 'the A.O.')

passed under section 143(3)read with section 144B of the Act, date of order30/04/2021.

2. The assessee has taken the following grounds of appeal:-

"1. On the facts and circumstances of the case and in law the Learned Commissioner of Income Tax has erred in confirming an addition of Rs. 1,75,18,530/- for disallowing the depreciation claimed by the appellant. However, the same shall be allowed in full.

2. On the facts and circumstances of the case and in law the Learned Commissioner has erred in confirming addition of Rs. 43,89,169/- for not charging interest on opening balance c interest-free advance amounting to Rs. 3,02,70,129/- given to the director of the company under the Head Income from Other Sources. However, the same shall be deleted in full.

3. On the facts and circumstances of the case and in law the Learned Commissioner has erred in not considering the fact that the appellant company has huge amount of unabsorbed brought forward business and depreciation losses which is entitled to be set off against the income assessed from the aforesaid additions so made under the assessment proceedings. However, the same shall be allowed to set off against the income so assessed.

4. On the facts and circumstances of the case and in law the Learned Commissioner ought to have considered the submission made by your appellant on 09.02.2024 before passing order u/s 250 on 16.02.2024. Hence the order passed is bad in law.

5. The Learned Commissioner of Income Tax ought to have appreciated the fact that all the details were properly submitted before the Assessing Officer at the time of passing the assessment order and hence the said order was erroneous and prejudicial.

6. Your appellant craves leave to add, alter, amend, modify and/or delete any of the Grounds of Appeal."

3. The brief facts of the case are that the assessee, a manufacturer of PP bags, filed its return of income for A.Y. 2018-19 dated 05/10/2018 declaring net loss of

Rs.1,53,47,473/- which was eventually assessed at income of Rs.43,51,701/- in an assessment passed under section 143(3) r.w.s. 144B of Act. Aggrieved assessee filed an appeal before Id. CIT(A). the Ld.CIT(A) passed an order exparte without considering the submission of the assessee which was submitted on dated 09/02/2024 and upheld the assessment order. Being aggrieved on the appeal order, the assessee filed an appeal before us.

4. The Ld.AR argued and filed a written submission which is kept in the record (in short, APB). The Ld.AR has invited our attention in the appeal order para 3, which is reproduced as below: -

“3. The hearing in this case was fixed on the following dates with due intimation electronically.

SL.NO.	DAE OF NOTICE	DATE OF HEARING	REMARKS
1.	03/08/2023	18/08/2023	No Reply
2.	16/10/2023	25/10/2023	No Reply
3.	09/11/2023	16/11/2023	No Reply
4.	04/01/2024	19/01/2024	No Reply
5.	02/02/2024	09/02/2024	No Reply

There was no compliance to above notices which were sent on the email id.registered under e-filing portal. Despite being given repeated opportunities of being heard, there has been no compliance to the notices. It is apparent that the appellant is not interested in pursuing his appeal. In the absence of any submission from the appellant, the grounds of appeal are decided on merits on the basis of facts available on record.”

The Ld.AR argued that the assessee filed the documents and evidence as per the notice issued by the Id.CIT(A) during the appeal proceedings. The compliance was made on 09/02/2024 for 'e-processing response acknowledgement' is annexed in **APB pages 8 to 9** which is reproduced as below: -

Acknowledgement Number : 1016989211090224

e-Proceedings Response Acknowledgement				
INCOME TAX DEPARTMENT				
PROCEEDING DETAILS				
PAN/TAN	AACCN5616L			
Name	NEOBAGS OVERSEAS PRIVATE LIMITED			
Financial Year	2017-18			
Assessment Year	2018-19			
Proceeding Name	First Appeal Proceedings			
Notice/Communication Reference ID	100073613931			
Notice Section	250			
Description	[ITBA]Hearing Notice u/s 250of Income Tax Act 1961.			
Notice Issue Date	02-Feb-2024			
Due Date for Submission	09-Feb-2024			
Communication Sent date				
Document Reference ID	ITBA/NFAC/F/APL_1/2023-24/1060444317(1)			
RESPONSE SUBMITTED				
Remarks	Respected Sir, In response to the notice dated 02.02.2024 we are enclosing herewith Letter and enclosures.			
Hash * Value Of Remarks	5cc066c858569d861c17e04e0d728156763a69f93f9b8ffe5156d7bc0fc53fef			
Sl No	Attachment Name	Description	Size(bytes)	Hash * value of Attachment
1	Letter to CIT(A) for Assessment Year 2018-19.pdf	Letter to CIT(A) for Assessment Year 2018-19	2689387	4af304f810d6cf50674a737b4fbb2cd3296254aa2f38a1f7b132030518e6d925
2	Copy of return of Income & Statement of Computation on Income.pdf	Copy of return of Income & Statement of Computation	688558	2fbd660a51e1af5a08932e1f2f83a0fe53deb2ef1aca9a22873ce884f05c2d08
3	NEOBAGS FINANCIALS 2017-18.pdf	NEOBAGS FINANCIALS 2017-18	2652261	00e844c1e43a074e97921f353dbd159fe3b6ae98f0cad72e9243ee5ca8b18465
4	AnnexA Auctiondat	Auction dated	2142595	b82bd06f867afe6d

SI No	Attachment Name	Description	Size(bytes)	Hash * value of Attachment
	ed250118.pdf	25.01.18		ec1a220c95b9eccad498193cf8713a65eed64e11d071ab6
5	AnnexB_Auctiondated200418.pdf	Auction dated 20.04.18	489611	f65cefdbde23cf7874203fe8af3d22c44c907f8eae56b98a058fd16520a0cb4
6	AnnexC_ChargewithMCA.pdf	Charge with MCA	186073	d7c5290cb3eaff8c16d43d1b8aac27849150c196cd7d4d43cda7f6330eef909
7	AnnexF_DRTNoticedated29012019.pdf	Debt Recovery Tribunal dated 29.01.2019	507649	e2dabba21375efc179ba065825a0c15540f66d29a4c7034bd53600d51d46706a
8	Reply to Show cause notice with acknowledge.pdf	Reply to Show cause notice with acknowledge	2669303	e6356545bb8e7919bd5e12128fa8f58604b07de81f8b30d4fd6ff7a15c63bf6d
9	AACCN5616_Order us 143(3)_1032731751 (1)_30042021.pdf	Assessment Order	209136	a346057fc6752397dd50b05c3c37ef00befdda3226adb8a5a8f1706c13f5ffed
This is a system generated acknowledgement and does not require signature				
* Hash : This value will uniquely identify the uploaded files and remarks.				

For NEOBAGS OVERSEAS PVT. LTD.

Director

The Id.AR prayed that for further hearing before the Id. CIT(A) considering the submission of the assessee.

5. The Ld.DR argued and accepted the fact and did not make any adverse comment against the submission of the assessee.

6. We heard the rival submissions, considered the documents available in the record. The assessee has complied with the notice issued by the Ld.CIT(A) on dated 02/02/2024. On dated 09/02/2024, the documents are duly filed but in the appeal order, the Id.CIT(A) mentioned that no documents are filed by the assessee. The details of this submission with forwarding letter are duly annexed in APB pages 10-17. The reference of letter VSM/278/F dated 09th February 2024. But without considering the submission, the appeal order was passed on 16/02/2024 which is violation of natural justice and denial of reasonable opportunity. In our considered view, the natural justice is denied to the assessee by not accepting the submission which was made by the assessee within the due date. Therefore, we remit the matter to the file of the Id.CIT(A) and direct him to pass an order on merit. The submission duly made by the assessee should be considered and the speaking order should be passed by considering the submission of the assessee. Needless to say, the Ld.CIT(A) shall provide proper and adequate opportunity of being heard to the assessee in set aside proceedings. The evidence / explanation submitted by the assessee in its defense shall be admitted by Id.CIT(A) and adjudicate the matter on merit, in accordance with law. We order accordingly.

7. In the result, **ITA No.1854/Mum/2024** is allowed for statistical purposes.

Order pronounced in the open court on 25th day of July, 2024.

Sd/-

(AMARJIT SINGH)
ACCOUNTANT MEMBER
Mumbai, दिनांक/Dated: 25/07/2024
Pavanan

sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

//True Copy//

BY ORDER,

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