

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “B”, MUMBAI
BEFORE SHRI. OM PRAKASH KANT, ACCOUNTANT MEMBER**

AND

SHRI. RAJ KUMAR CHAUHAN, JUDICIAL MEMBER

ITA NO. 4755/MUM/2023 (A.Y: 2015-16)

&

ITA NO. 4751/MUM/2023 (A.Y: 2016-17)

&

ITA NO. 4811/MUM/2023 (A.Y: 2017-18)

Maulana Azad Alpasankhyank Vs. Income Tax Officer Ward
Arthik Vikas Mahamandal Maryadit 2(2)(3), Mumbai
2nd Floor, D. D. Building, Shahid Room No. 542, Ayakar
Bhagat Singh Marg, Fort, Mumbai – Bhavan, Maharshi Karve
400 023. Road, Churchgate, Mumbai –
400 020.

PAN: AADCM6528R

(Appellant)

(Respondent)

Assessee Represented by	:	Shri. Devendra Jain
Department Represented by	:	Shri. S. Srinivasu, CIT DR & Shri. Sunil Shinde, SR. AR
Date of conclusion of Hearing	:	15.05.2024
Date of Pronouncement	:	14.08.2024

ORDER

PER RAJ KUMAR CHAUHAN (J.M.):

1. These three appeals are filed by the appellant/assessee against the orders dated 20.11.2023 for A.Y. 2015-16, 30.10.2023 for A.Y. 2016-17 and 27.10.2023 for A.Y. 2017-18 of Learned Commissioner of Income Tax



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(Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as the “CIT(A)”], passed under section 250 of the Income Tax Act, 1961 [hereinafter referred to as “*the Act*”]. We proposed to dispose off all three appeals by this common order in order to avoid multiplicity of decisions and also because the issue is same and parties are same.

2. The common and only question to be determined in these appeals of the assessee is whether the Ld. CIT(A) vide impugned orders was justified for dismissal of the appeal on merit, without effective hearing to the assessee.
3. Aggrieved by the impugned order of the Ld. CIT(A) dated 20.11.2023 for A.Y. 2015-16, 30.10.2023 for A.Y. 2016-17 and 27.10.2023 for A.Y. 2017-18, the present appeals have been filed by the assessee with the prayer that the Ld. CIT(A) has dismissed the appeal without affording the effective opportunity to the appellant/assessee for presenting his case as the notice of appeal issued on the email were not received or brought to the notice of the appellant/assessee.
4. The brief common facts in all the appeals are that the assessee which is a company has not filed its return of income for the relevant A.Y. 2015-16, 2016-17 and 2017-18, respectively. On the basis of the information



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available in AIMS MULTI YEAR NMS of ITBA Portal, the assessee has received interest or investment income in the relevant A.Y. 2015-16, 2016-17 and 2017-18. Accordingly, the case was reopened u/s. 147 of the Act, after recording the reasons and obtaining approval of the appropriate authority. Thereafter, notice u/s. 148 of the Act was issued and duly served upon the assessee. Several notices u/s. 142(1) of the Act were issued on the different dates as find mentioned in the order of the Ld. AO but assessee did not file any reply. Accordingly, the total income of the assessee was assessed at Rs. 1,44,32,111/- for the A.Y. 2015-16, Rs. 2,18,56,766/- for A.Y. 2016-17. For A.Y. 2017-18 the income of the assessee was determined as under:

“5. Subject to above remarks, the income of the assessee is determined as under:

<i>Addition on account of Undisclosed Interest Income as discussed in Para No. 4.1</i>	<i>1,38,565/-</i>
<i>Addition on account of Unexplained investment u/s. 69 in respect of purchase of time deposits as discussed in Para No. 4.2</i>	<i>60,82,83,863/-</i>
<i>Addition on account of Unexplained investment u/s. 69 in respect of purchase of Shares of NMDC as discussed in Para No. 4.3.</i>	<i>50,00,000/-</i>
Total Income Assessed	61,34,22,428/-

5. The penalty proceedings were also initiated in each case.



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6. Aggrieved by the order of the Ld. AO in all three appeals, the assessee has filed appeal u/s. 250 of the Act before the Ld. CIT(A). After condonation of delay in each appeal, the Ld. CIT(A) issued notice of the appeal and 4-5 opportunities were given to the assessee in each case to file its response but the assessee did not file any response. Hence, the Ld. CIT(A) has proceeded to decide the appeal on merit which resulted into passing of the impugned order in each case. The assessee has approached against the impugned order in appeal before us and has raised the following grounds in each case.

7. For A.Y. 2015-16, the assessee has raised following grounds:

- “1. *In the facts and circumstances of the case and in law, the Ld. Commissioner of Income Tax (Appeals) (through the National Faceless Appeals Centre) has erred in confirming the action of the Ld. Assessing Officer in initiating the re-assessment proceedings under section 147 of the Act (hereinafter also referred to as 'the Act') against the Appellant for the relevant Assessment Year 2015-16.*
2. *In the facts and circumstances of the case and in law, the Ld. Commissioner of Income Tax (Appeals) (through the National Faceless Appeals Centre] has erred in confirming the action of the Ld. Assessing Officer in completing the assessment by passing an ex-prate order under section 144 read with section 147 read with section 144B of the Act; thereby making huge additions to the total income of the Appellant.*
3. *Without prejudice to above ground, in the facts and circumstances of the case and in law the Ld. Commissioner of Income Tax (Appeals) has erred in confirming the action of the Ld. Assessing Officer in making an addition of Rs 1,44,32,110/- in the hands of the Appellant disregarding the fact that the Appellant is a Maharashtra State Government owned undertaking (public company) incorporated for*



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the welfare of economically weaker and backward section of the minorities whose income is exempt under section 10(26BB) of the Act.

4. *Without prejudice to the above ground, in the facts and circumstances of the case and in law the Ld. Commissioner of Income Tax (Appeals) has erred in confirming the action of the Ld. Assessing Officer in making an addition of Rs 1,44,32,110 without allowing a deduction for expenditure incurred.”*

8. For A.Y. 2016-17, the assessee has raised following grounds:

- “1. *In the facts and circumstances of the case and in law, the Ld. Commissioner of Income Tax (Appeals) through the National Faceless Appeals Centre has erred in confirming the action of the Ld. Assessing Officer in initiating the re-assessment proceedings under section 147 of the Act (hereinafter also referred to as 'the Act') against the Appellant for the relevant Assessment Year 2016-17.*
2. *In the facts and circumstances of the case and in law, the Ld. Commissioner of Income Tax (Appeals) [through the National Faceless Appeals Centre] has erred in confirming the action of the Ld. Assessing Officer in completing the assessment by passing an ex-prate order under section 144 read with section 147 read with section 144B of the Act; thereby making huge additions to the total income of the Appellant.*
3. *Without prejudice to above ground, in the facts and circumstances of the case and in law the Ld. Commissioner of Income Tax (Appeals) has erred in confirming the action of the Ld. Assessing Officer in making an addition of Rs 2,18,56,766/ in the hands of the Appellant disregarding the fact that the Appellant is a Maharashtra State Government owned undertaking (public company) incorporated for the welfare of economically weaker and backward section of them minorities whose income is exempt under section 10(26BB) of the Act.*
4. *Without prejudice to the above ground, in the facts and circumstances of the case and in law the Ld. Commissioner of Income*



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Tax (Appeals) has erred in confirming the action of the Ld. Assessing Officer in making an addition of Rs 2,18,56,766/- without allowing a deduction for expenditure incurred.”

9. For A.Y. 2017-18, the assessee has raised following grounds:

- “1. *In the facts and circumstances of the case and in law, the Ld. Commissioner of Income Tax (Appeals) [through the National Faceless Appeals Centre] has erred in confirming the action of the Ld. Assessing Officer in initiating the re-assessment proceedings under section 147 of the Act (hereinafter also referred to as 'the Act) against the Appellant for the relevant Assessment Year 2017-18.*
2. *In the facts and circumstances of the case and in law, the Ld. Commissioner of Income Tax (Appeals) [through the National Faceless Appeals Centre] has erred in confirming the action of the Ld. Assessing Officer in completing the assessment by passing an ex- prate order under section 144 read with section 147 read with section 144B of the Act; thereby making huge additions to the total income of the Appellant.*
3. *Without prejudice to above ground, in the facts and circumstances of the case and in law the Ld. Commissioner of Income Tax (Appeals) has erred in confirming the action of the Ld. Assessing Officer in making an addition of Rs 1,38,565/ in the hands of the Appellant disregarding the fact that the Appellant is a Maharashtra State Government owned undertaking (public company) incorporated for the welfare of economically weaker and backward section of the minorities whose income is exempt under section 10(26BB) of the Act.*
4. *In the facts and circumstances of the case and in law, the Ld. Commissioner of Income Tax (Appeals) (National Faceless Appeals Centre) has erred in confirming the action of Ld. Assessing Officer (National Faceless Assessment Centre), in making an addition of Rs. 61,32,83,863/- under section 69 of the Act.”*

10. We have heard the Ld. AR on behalf of the appellant who argued that the notices might have been issued on the email id of the appellant company but the said email id was being operated by Mr. Abdul Aziz



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Abdul Hafeez who had disassociated with the appellant. As a result, the appellant could not retrieve the notices sent on the email at that time. It is further stated that, the appellant came to know of the demand by the Income Tax Department when the bank account of the appellant in Axis Bank was frozen. It is further submitted that the Managing Director of the appellant company which is a Government of Maharashtra undertaking registered under Companies Act, 1956 and is being run for benefit of the National Minorities.

11. It is therefore argued that in the given facts and circumstances an opportunity be given in the interest of justice to the appellant and matter be restored to the file of the Ld. AO so that the appellant is able to present its case by submitting documents and making submissions.

12. We have also heard the Ld. DR on behalf of the revenue who has relied upon the orders of the Ld. Lower Authorities stating that the appellant is highly negligent and does not deserve any leniency and appeal deserves to be dismissed.



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13. We have considered the rival submissions and carefully examined the record, the contents of the affidavit of Managing Director of the appellant are relevant and reproduced as under:

- “1. That I am the managing director of 'Maulana Azad Alpasankhyank Arthik Vikas Mahamandal Maryadit' (hereinafter also referred to as 'the Appellant') which is a Government of Maharashtra undertaking registered under Companies Act 1956 and is the Maharashtra state's channelizing agency of Government of India's National Minorities Development and Finance Corporation run by the Union Minority Affairs Ministry.
2. That the Appellant was unaware of the assessment proceedings being conducted against it for various assessment years inter-alia AY 2015-16, AY 2016-17 and AY 2017-18 because the notices in respect of the same were not received by post. Even though the notices might have been issued on the email ID; however, the said email ID was being operated by an employee Mr. Abdul Aziz Abdul Hafeez who had disassociated with the Appellant and the Appellant couldn't retrieve it at that time.
3. It was only when the bank account of the Appellant with Axis Bank was frozen by the Income Tax Department; the Appellant became aware of the proceedings against it. Thereafter, the Appellant approached the jurisdictional Assessing Officer and sought the assessment records.
4. It was on account of the above, the Appellant was unable to participate during the Assessment Proceedings.
5. This affidavit is being made to support the facts of the case in respect of the Appeal before the Hon'ble Income Tax Appellate Tribunal.”

14. We have examined the contents of the affidavit reproduced above and also considered the submissions. The appellant is a government undertaking registered under the Companies Act, 1956 and purpose of its creation is



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to look after the interest of the Minorities and is run by the Ministry of Minority Affairs. The explanation for non-appearance and non-submission of response before the Ld. Lower Authorities has been explained in the affidavit. We have no reasons to disbelieve the contents of the affidavit.

15. Nothing contrary has been brought on record to the contents of the affidavit by the revenue authorities. In the absence of response having not been filed either before the Ld. AO during the assessment proceedings or before the Ld. CIT(A) during the appellant proceedings, it is apparent that no effective hearing has taken place in this case. The reasons given by the appellant for non-filing reply before the Ld. Lower Authorities in the given facts and circumstances seems to be justified.

16. The end of justice requires that no one should be condemned unheard and sub section 2 of Section 250 of the Act speaks of hearing at the time of appeal to be afforded to the appellant in person or through representative. Considering the spirit of contents of section 250 of the Act, we are of the considered opinion that the interest of justice requires that an opportunity be given to the assessee in all the three appeals for presenting its case before the Ld. Assessing Authorities. Since no reply was filed to



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the opening of the case as no Income Tax return was filed before the Ld. AO, therefore, the matter is restored to the file of the Ld. AO with the direction to the assessee to file its response/reply/documents in support of its case before the Ld. AO within a period of 90 days from the date of this order. In case the assessee fails to present its case in the given time by us, before the Ld. AO, the Ld. AO shall be at liberty to dispose off the matter as per law.

17. All the appeals are disposed off accordingly in above terms. Copy of the order be needed in each case file.

18. In the result, ITA No. 4755/MUM/2023, ITA No. 4751/MUM/2023 and ITA No. 4811/MUM/2023 for assessment years 2015-16, 2016-17 and 2017-18 filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on 14.08.2024

Sd/-

**(OM PRAKASH KANT)
(ACCOUNTANT MEMBER)**

Sd/-

**(RAJ KUMAR CHAUHAN)
(JUDICIAL MEMBER)**

Mumbai / Dated 14.08.2024
Karishma J. Pawar, (Stenographer)



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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