

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SMT RENU JOHARI, ACCOUNTANT MEMBER**

**ITA No.1311/Mum/2024
(Assessment Year :2017-18)**

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| Lakozy Motors Pvt. Ltd 8, Shah Industrial Estate Veera Desai Road Andheri West Mumbai-400 058 | Vs. | Income Tax Officer- 10(2)(1) Mumbai |
| PAN/GIR No.AAACL1889K | | |
| (Appellant) | .. | (Respondent) |

| | |
|------------------------------|-------------------------|
| Assessee by | Shri Satyaprakash Singh |
| Revenue by | Shri Manoj Kumar Sinha |
| Date of Hearing | 29/08 /2024 |
| Date of Pronouncement | 29/08/2024 |

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 24/01/2024 passed by NFAC for the quantum of assessment passed u/s.143(3) for the A.Y.2017-18.

2. Before us, ld. Counsel has raised following grounds:-

“1. On the facts and in the circumstances of the case and in law, the Ld. AO erred in passing an order under section 143(3) of the Act without giving a fair and reasonable opportunity of hearing to the Appellant and thereby violating the principles of natural

justice. She failed to appreciate that the appellant was not given considerable opportunity to represent its case before concluding the assessment proceeding under section 143(3) of the Act.

The Appellant prays that the order passed by the AO under section 143(3) of the Act be held as ab-initio-void and bad in law.

2. On the facts and in the circumstances of the case and in R law, the learned A.O. erred in adding Rs. 1,16,01,470/- u/s 68 of the Act on account of lack of documents in relation to advances received by the appellant. The [earned A.O has failed to provide proper opportunity oi being heard to the appellant. In view of the foregoing, the appellant prays that the AO be directed to delete the said addition of Rs. 1,16,01,4707- and the said addition also upheld by the Hon'ble National Faceless Appeal Centre/CIT(A). The appellant company prays that the said disallowance may please be deleted.

3. On the facts and in the circumstances of the case and in law, the learned A.O. erred in disallowing Rs. 7,82,544/- u/s 36(l)(va) rws 2(24)(x) of the Act on account of employee toward contribution to the provident fund has been paid/ deposited in the provident fund of the employee after the due date and the said addition also upheld by the Hon'ble National Faceless Appeal Centre/CIT(A). The appellant company prays that the said disallowance may please be deleted.

4. On the facts and in the circumstances of the case and in law, the learned A.O. erred in disallowing Rs. 1,22,937/- (being 12% of Rs. 10,24,477/-) u/s 36(1)(iii) of the Act on account of interest on advance given and the said addition also upheld by the Hon'ble National Faceless Appeal Centre/CIT(A). The appellant company prays that the said disallowance may please be deleted.

3. At the outset, it is seen that ld. CIT (A) has passed *exparte* order on the ground that assessee has not complied with the notices nor any adjournment has been sought. Before us, ld. Counsel submitted that the appeal was filed on 28/01/2020 and

notices were issued during the Covid period which assessee was not aware. The last notice as per the order was issued on 02/06/2023 and order has been passed in January 2024. Assessee was not aware of such notices. Accordingly, in the interest of justice he submitted that the matter should be restored back to the file of the ld. CIT (A).

4. Even ld. DR does not have any objection if the matter is restored back to the file of the ld. CIT (A) and decide afresh in accordance with the law. Accordingly, we are remanding all the grounds raised before us to the file of the ld. CIT(A) to be decided afresh after giving due opportunity to the assessee to substantiate its case and assessee is also directed to comply with the notices and participate in the proceedings as and when notices are issued.

5. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced on 29th August, 2024.

Sd/-
(RENU JAUHRI)
ACCOUNTANT MEMBER

Mumbai; Dated 29/08/2024
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.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai