

**IN THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH, MUMBAI**

**BEFORE MS PADMAVATHY S, AM &
SHRI SANDEEP SINGH KARHAIL, JM**

**I.T.A. No.3593/Mum/2024
(Assessment Year: 2017-18)**

Vipul Organics Ltd. 102, Andheri Industrial Estate, Veera Desai Road, Andheri (W), Mumbai-400053.. PAN : AAACV1710B	Vs.	Asst. CIT, Circle 3(3)(1), Room No. 609, 6 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400020.
Appellant)		
: Respondent)		

Appellant / Assessee by : Shri Hemant Kumar, AR

Revenue / Respondent by : Shri Surendra Meena, Sr. DR

Date of Hearing : 27.08.2024

Date of Pronouncement : 02.09.2024

ORDER

Per Padmavathy S, AM:

This appeal by the assessee is against the order of Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre (NFAC), Delhi [in short 'the CIT(A)'] dated 29.05.2024 for Assessment Year (AY) 2017-18. The assessee raised the following grounds of appeals:

“1. The Ld. CIT (Appeals). National Faceless Appeal Centre (NFAC), Delhi has grossly erred in law and in facts in dismissing the appeal ex-parte without affording reasonable opportunity of being heard to the appellant. The appeal of the appellant may kindly be restored to the file of the Ld. CIT (Appeals) and may please be directed to afford reasonable opportunity of being heard.

2. The Ld. CIT (Appeals), NFAC has erred in law and in facts in confirming the action of the Ld. AO in making additions/disallowances without discussing the issue on merits of the case and without making any further inquiry. The additions/disallowances, so confirmed deserves to be set aside and directed to be decided on merits after granting proper opportunity of being heard and making proper inquiry.

3. The Ld. CIT(A), NFAC has erred in law and in facts in confirming the action of the Ld. A.O.

(a) in the addition of an amount of Rs. 56,00,000/- received from various persons towards subscription to Share Capital as unexplained cash credit u/s. 68.

(b) in invoking the provisions of Sec. 115BBE on the above addition.

The addition of Rs. 56,00,000/- and the invocation of the provisions of Sec. 115BBE being erroneous in facts and in disregard of the law, is prayed to be deleted.

4. The Ld. CIT(A), NFAC has erred in law and in facts in confirming the action of the Ld. A.O.

(a) in the addition of an amount of Rs. 1,00,00,000/- received from various persons towards subscription to Share Warrants as unexplained cash credit,

(b) in invoking the provisions of Sec. 115BBE on the above addition.

The addition of Rs. 1,00,00,000/- and the invocation of the provisions of Sec. 115BBE, being erroneous in facts and in disregard of the law is prayed to be deleted.

5. The Ld. CIT(A), NFAC has erred in law and in facts in confirming the action of the Ld. A.O. in holding that the payments made to the related parties are excessive and unreasonable and are liable to be disallowed to the extent of Rs. 24,43,100/- (being 10 percentage of the total payments), without bringing in any material to hold so. The disallowance of the expense of Rs. 24,43,100/- being erroneous in facts and disregard of the law is prayed to be deleted.

6. The Ld. CIT(A), NFAC has erred in law and in facts in confirming the action of the Ld. A.O. in holding that the rent deposit paid by the appellant to the related persons is excessive and unreasonable and therefore, the interest relatable to such deposit is for non-business purposes. The disallowance of Rs. 33,00,000/- being bad in law and in facts is prayed to be deleted.

7. The Ld. CIT(A), NFAC has erred in law and in facts in confirming the action of the Ld. A.O. in holding that the amount of Rs. 2.04 Crores paid to J. P. Developers for acquiring capital asset is for non-business purpose and interest amount of Rs. 22.44,000/- relatable to the same is also not to be allowed. The disallowance of Rs. 22,44,000/- being erroneous in law and in facts is prayed to be deleted.

8. The Ld. CIT(A), NFAC has erred in law and in facts in confirming the action of the Ld. A.O. in disallowing an amount of Rs. 39.83,994/- to non-residents for promoting sales of the appellant's products for want of deduction of tax at source. The disallowance of Rs. 39,83,994/- being erroneous in facts and in disregard of law is prayed to be deleted.

9. The Ld. CIT(A), NFAC has erred in law and in facts in confirming the action of the Ld. A.O. in disallowing an amount of Rs. 1,40,427/-u/s. 14A of the I.T. Act. The disallowance of Rs. 1,40,427/-being erroneous in facts and in disregard of law is prayed to be deleted.”

2. The assessee is a company and filed the return of income for AY 2017-18 on 30.10.2017 declaring a total income of Rs. 2,34,49,730/-. The case was selected for scrutiny and statutory notices were duly served on the assessee. The Assessing Officer (AO) completed the assessment by making various additions/disallowances assessing the income of the assessee at Rs. 5,11,61,248/-. Aggrieved, the assessee filed further appeal before the AO who dismissed the appeal ex-parte.

3. We heard the parties and perused the material on record. From the perusal of the CIT(A)'s order we noticed that the CIT(A) has not adjudicated the issue on merits and has merely reproduced the grounds and confirmed the additions/disallowances made by the AO. The ld. AR during the course of hearing submitted that only two notices were sent by the CIT(A) and one such notice was during the Covid period which the assessee could not respond. Considering the facts of the case in the interest of natural justice and fair play, we are inclined to give one more opportunity to the assessee to represent the case properly on merits before the CIT(A). Accordingly, we remand the appeal back to the CIT(A) with a

direction to call for required details to decide the case on merits in accordance with law. The assessee is directed to file the necessary details as may be called for by the CIT(A) without seeking any adjournment and co-operate with appellate proceeding. It is ordered accordingly.

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

Order pronounced in the open court on 02-09-2024.

Sd/-
(SANDEEP SINGH KARHAIL)
Judicial Member

**SK, Sr. PS*

Sd/-
(PADMAVATHY S)
Accountant Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai