

IN THE INCOME TAX APPELLATE TRIBUNAL, MUMBAI BENCH 'E', MUMBAI

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

**ITA No.2917/Mum/2024
Assessment Year: 2014-15**

Export Import Bank of India World Trade Centre Complex, Centre One Building, Floor 21, Colaba S.O., Mumbai-400005. PAN: AAACE 2769 D (Appellant)	vs	PCIT, Mumbai-3, Mumbai (Respondent)
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Present for:

Assessee by : Ms. Aarti Vissanji
Revenue by : Shri Solgy Jose T. Kottaram, CIT, DR

Date of Hearing : 25.07.2024
Date of Pronouncement : 23.09.2024

ORDER

PER AMARJIT SINGH, AM:

This appeal of the assessee for the assessment year 2014-15 is directed against the order dated 26.03.2024 passed by the Id. Commissioner of Income-tax (Appeal), NFAC, Delhi. The assessee has raised the following grounds of appeal:

"1. In the facts and in the circumstances of the case and in law. the Ld. CIT(A) ought to have held that there was no reason to believe that any income chargeable to tax has escaped assessment for the assessment year under reference as the reasons recorded by the Ld. AO tor issuance of notice u /s. 148 of the Act was:

(a) merely based on change of opinion / absence of new tangible material; and/or

(b) based on audit objection which represents borrowed satisfaction and non-application of mind by the Ld. AO; and/or

(C) Without following the settled principle of law of rule of consistency", which squarely applies to the alleged addition/disallowance made in the re-assessment order passed u/s. 147 of the Act.

1.1 Without prejudice to the above and in the alternate. in the facts and in the circumstances of the case and in law, the Ld. CIT(A) ought to have held that the action u/s 147 could not have been taken after the expiry of four years from the end of the relevant assessment year as in the original assessment made u/s. 143(3) of the Act vide order dated 02/12/2016, there was no failure on the part of the appellant to disclose fully and truly all material facts necessary for the assessment for the assessment year under reference.

1.2 Accordingly, it is humbly prayed that the Order dated 25/03/2022 passed u/s. 147 of the Act should be held as illegal/ bad-in-law and consequently be quashed/ cancelled.

2. Without prejudice to the Ground No. 1 above and in the alternate, in the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in confirming action of the Ld. AO that the following nature of income does not qualify as income from long term finance eligible for deduction u/s. 36(1) (viii) of the Act:

(a) Interest income earned from Government Guaranteed Lines of credit of Rs.6,58,40,13,370/-,

(b) Interest equalization support received from Government of India on Lines of Credit granted of Rs.5,54,59,05,547/-, and

(c) Interest income on HUDCO bonds of Rs.21,04,65,205/ -.

2.1 In view of the above, the Ld. CIT(A) erred in reducing the claim of deduction u/s. 36(1) (viii) of the Act by Rs.71,80,00,000/-.

2.2 Accordingly, it is humbly prayed that the Ld. AO be directed to delete the disallowance made towards deduction claimed u/s. 36(1) (vii) of Rs.71,80,00,000/- and consequently, allow deduction of Rs.205,00,00,000/- u/s. 36(1) (vii) of the Act.

3. In the facts and in the circumstances of the case and in law, the Ld. CIT(A) ought to have directed the Ld. AO to assess the total income for the year by considering the reliefs granted vide effect Order dated 31/05/20 18 passed pursuant to the Order of the Ld. CIT(A) dated 15

/03/ 2018 and reliefs granted by the Hon. ITAT dated 14/02/2020 for the assessment year under reference. Accordingly, it is humbly prayed that the Ld. AO be directed to consider the said effect order / ITAT Order in assessing the income for the assessment year under reference.

4. In the facts and in the circumstances of the case and in law, the Ld. AO be directed to give consequential impact in revising the claim of deduction for the provision for bad and doubtful debts u/s. 36(1)(viii) and for the claim of deduction of bad-debts written off as irrecoverable in the accounts of the appellant u/s. 36(1) (vii) of the Act based on the reliefs granted pursuant to Grounds of Appeal No. 1 to 3 forming part of this appeal petition and assess the income accordingly.

5. In the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in not directing the Ld. AO to compute the tax payable on short-term capital gain of Rs. 1,79,87, 702/- on sale of equity shares on which STT is paid at the applicable rate of 15%. Accordingly, it is humbly prayed that the Ld. AO be directed to compute the short-term capital gain tax at Rs. 26,98, 155/- instead of Rs. 21,80,98,155/- determined and revise the tax position for the assessment year under reference accordingly.

6. In the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in not directing the Ld. AO to delete the interest charged u/s. 234B of the Act of Rs.22,65,18,432/- without considering the fact that the advance tax paid by the appellant is more than 90% of assessed tax computed on the basis of income assessed vide Order of assessment dated 25/03/2022 passed. u/s. 147 of the Act. Accordingly, it is humbly prayed that the Ld. AO be directed to compute the tax position for the assessment year under reference without levy of interest u/S. 234B of the Act.

7. In the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in not directing the Ld. AO to grant credit of adjustment of refund of Rs.27,30,09,670/- pertaining to the assessment year 2011-12 in determining tax position for the year.

8. It is humbly prayed that the reliefs as prayed for hereinabove and/or such other reliefs as may be justified by the facts and circumstances of the case and as may meet the ends of justice should be granted.

9. The appellant craves leave to amend or alter any ground or add a new ground, which may be necessary.”

2 Fact in brief is that return of income declaring income of Rs. 1910,27,64,540/- was filed on 26.09.2014. The case was subject to scrutiny assessment and assessment u/s 143(3) of the Act was finalized on 02.12.2016 and total income was assessed at Rs. 1916,74,93,789/- after making various disallowances.

3. The assessee filed appeal before the ld. CIT(A). However, the ld. CIT(A) has dismissed the appeal of the assessee as assessee has not made any compliance before the ld. CIT(A). During the course of appellate proceedings before us, the ld. Counsel submitted that no compliance could be made to the notices issued by the ld. CIT(A) as notices of hearing could not be retrieved from the e-mail which has gone to junk folder. The ld. DR is fair enough in his submission that the case may be restored to the file of the ld. CIT(A) for adjudicating on merit.

4. Heard both the sides and perused the material on record. During the course of appellate proceedings before the First Appellate Authority neither anybody on behalf of the assessee has attended in the appellate proceedings nor file any written submission on the hearing dates therefore, the ld. CIT(A) has dismissed the appeal of the assessee without considering any response from the side of the assessee. The ld. Counsel submitted that assessee could not make any compliance during the course of appellate proceedings before the ld. CIT(A) since notice of hearing could not be retrieved from the e-mail as the same have gone to junk folder.

5. Looking to the above facts and circumstances, we consider it appropriate to restore the case of the assessee to the file of the ld. CIT(A) for adjudicating on merit as contemplate u/s 250(6) of the Act after providing opportunities to the assessee. The assessee is also directed to make due compliance before the ld. CIT(A). Accordingly, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 23.09.2024

Sd/-

Sd/-

**(ANIKESH BANERJEE)
JUDICIAL MEMBER**

**(AMARJIT SINGH)
ACCOUNTANT MEMBER**

Mumbai: 23.09.2024
Biswajit, Sr. P.S.

Copy to:

1. The Appellant:
2. The Respondent:
3. The CIT,
4. The DR .

//True Copy//

By Order

Assistant Registrar
ITAT, Mumbai Benches, Mumbai