| आयकरअपीलीयअधिकरणन्यायपीठ,मुंबई|

IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
&
SHRI RAHUL CHAUDHARY, HON'BLE JUDICIAL MEMBER

I.T.A. No.1387/Mum/2023
(Assessment Year: 2018-19)

Bennett Coleman & Co Ltd. The Times of India Building, Dr. Dadabhai Naoroji Road Fort, Mumbai-400 001 **[PAN: AAACB4373Q]**	Vs	**National Faceless Assessment Centre, Delhi**

अपीलार्थी/ (Appellant)		**प्रत्यर्थी/** (Respondent)

I.T.A. No.1520/Mum/2023
(Assessment Year: 2018-19)

ACIT-1(1)(1), Mumbai	Vs	**Bennett Coleman & Co Ltd.** The Times of India Building, Dr. Dadabhai Naoroji Road Fort, Mumbai-400 001 **[PAN: AAACB4373Q]**

Assessee by :	Shri P.J. Pardiwala a/w. Shri Madhur Agrawal, Shri Jas Sanghavi, Shri Yash Prakash & Shri Vikas Poojary
Revenue by :	Shri S. Srinivasu CIT DR a/w. Shri Ashok Ambastha, Sr. DR

सुनवाई की तारीख/**Date of Hearing : 12.09.2024**

घोषणा की तारीख /**Date of Pronouncement: 30.09.2024**

आदेश/O R D E R

PER NARENDRA KUMAR BILLAIYA, AM

ITA No.1387/Mum/2023 & 1520/Mum/2023 are cross appeals by the assessee and revenue preferred against the very same order of the NFAC, Delhi dated 02/03/2023 pertaining to A.Y.2018-19.

2. The impugned appeals were heard together and are disposed of by this common order for the sake of convenience and brevity.

3. First, we will take ITA No.1387/Mum/2023, appeal of the assessee. The grievance of the assessee reads as under:-

"1.Whether in the facts and circumstances of the case and in law, the Ld. Commissioner of Income Tax (Appeals) ("CIT(A)") was justified in holding that the Assessment Order dated 28.09.2021 was passed within the limitation period prescribed under Section 153 of the Act, despite the fact that the said Assessment Order was digitally signed 01.10.2021?

2. Whether in the facts and circumstances of the case and in law, the Ld. CTT(A) was justified in upholding the disallowance of Rs. 70,96,07,349/- made by the Ld. Assessing Officer ("AO") under Section 14A of the Income Tax Act, 1961 ("Act") read with Rule 8D of the Income Tax Rules, 1962 ("Rules")?

3. Whether in the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in invoking Rule 8D of the Rules in the absence of any objective satisfaction recorded by the Assessing Officer, in terms of Section 14A(2) of the Act, having regard to the accounts of the Appellant?

4. Whether in the facts and circumstance of the case and in law, the Learned CIT (A) was bound to accept the Appellant's working of disallowance

ignoring consistent past practice and earlier orders of this Hon'ble Tribunal for prior assessment years?

5. Whether in the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in upholding the disallowance under Section 14A of the Act notwithstanding the fact that the non-interest-bearing funds of the Appellant are in excess of the investments yielding exempt income?

6.Whether in the facts and circumstances of the case and in law, the Ld. CTT(A) has rendered Section 14A(2) otiose by sustaining disallowance by the learned AO?

7. Whether in the facts and circumstances of the case and in law, the Ld. CTT(A) was justified in upholding the disallowance of Rs. 70,96,07,349/- made by the Ld. AO under Section 14A of the Act, and adding the said amount to the Book Profits computed under Section 115JB of the Act?

8. Whether in the facts and circumstances of the case, the Ld. CIT(A) was justified in upholding the net disallowance of expenditure of software upgradation and support of Rs. 8,80,76,581/-?

9. Whether in the facts and circumstances of the case, the Ld. CIT(A) was justified in holding that the expenditure of software upgradation and support was not a revenue expenditure but capital in nature?

10. Whether in the facts and circumstances of the case and in law, the Learned CIT (A) was justified in upholding the disallowance of carry forward of Long-Term Capital Loss of Rs. 46,30,88,058/- suffered on sale of shares on which Securities Transaction Tax ("STT") was admittedly paid?

11. Whether in the facts and circumstances of the case and in law, the Learned CIT(A) was right in upholding the disallowance of carry forward of Long-Term Capital Loss by merely relying on the reasoning recorded by the Learned AO and not considering the detailed submissions made by the Appellant?

12. Whether in the facts and circumstances of the case and in law, the Learned CIT(A) was justified in upholding the disallowance of carry forward of Long-

Term Capital Loss holding that the Long-Term Capital Gain on STT-paid shares is exempted under Section 10(38) of the Act?

13. Whether in the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in upholding that the term "income" appearing in Section 10(38) of the Act includes the term "loss" and thus, Section 10(38) of the Act also covers Long-Term Capital Loss in respect of shares on which STT is paid?

14. Whether in the facts and circumstance of case and in law, the learned CIT (A) erred in not following binding precedent of this Hon'ble Tribunal in Raptakos Brett & Co Ltd v. DCIT [ITA Nos. 3317/Mum/2009 and 1692/Mum/2010]?

15. Whether in the facts and circumstances of the case and in law, the learned CIT (A) has erred in upholding the findings of the Ld. AO recording purported satisfaction for initiation of penalty proceedings against the Appellant?

4. The assessee has challenged the validity of the assessment order dated 28/09/2021 claiming that it was not passed within the limitation period prescribed u/s.153 of the Act.

5. Since this challenge goes to the root of the matter, we will address it first.

6. The representatives of both the sides were heard at length. Case records carefully perused and the relevant documentary evidences brought on record duly considered in the light of Rule 18(6) of the ITAT Rules. Judicial decisions referred to duly considered.

7. The quarrel revolves around the date of assessment order framed u/s.143(3) r.w.s.144B of the Act. Referring to the impugned assessment order, the Counsel strongly contended that the same is digitally signed on 01/10/2021 whereas the assessment gets barred by limitation on 30/09/2021.

8. The DR strongly rebutted the contention of the assessee and relied heavily on the report submitted by the DCIT-1(1)(1), Mumbai, referring to the relevant clauses of the report, the DR stated that the assessment order was made on 28/09/2021 well before the expiry of the period of limitation.

9. It would be pertinent to refer to the report of the AO. The most relevant observations of the report read as under:-

"(i)The FAO has made clear and emphatic remarks in case history notings of ITBA, which establishes that the FAO has indeed concluded/completed the assessment order on 28 September, 2021 itself and due to technical issues/glitches, the digital signature could not be affixed/made on the same date so as to send the concluded assessment order on 28/09/2021 itself by email/electronically to assessee by NFAC. The relevant part of the case history ITBA notings is mentioned here below for kind perusal and consideration of Hon'ble Bench:

30/09/2021*-Notings/Remarks: final order was generated by the AU on 28th September, 2021. However due to certain technical glitches the case has been stuck in CPC due to computation failure, multiple complaints were raised on the ITBA helpdesk, some incident numbers are 1477329, 1478741, 1478810, despite multiple complaints the issue has*

not been solved till this moment. Hence it is to be brought on record that if this case gets time barred the whole responsibility should be placed on the systems team, the officer posted in AU has completely discharged his responsibility by passing the final order. Based on conversation with ITBA helpdesk team they have repeatedly assured that AU has discharged its responsibility and technical issues are the reasons why this case has still not been completed."

The copy of the relevant order sheet of ITBA is enclosed as annexure-1 to establish the above contention of Revenue to conclude that the final assessment order was indeed passed by the FAO on 28.09.2021 itself*.*

4. Further, it is also seen that the FAO has attached screen shot of assessment order generation in the system to establish that the assessment order is indeed completed by FAO from his side on 28.09.2021 itself as mentioned in his order. This is available in ITBA system as "attachment in assessment proceedings for relevant A.Y. This screen shot was taken on 30/09/2021 at 17.24, and proof of same is enclosed herewith as ***annexure-2****. From this, it is clearly evident that the FAO being AO of faceless Assessment Scheme has indeed concluded and finalised this Assessment order and uploaded on to ITBA on 28/09/2021 itself along with its generation as mentioned in this order of FAO* ***as per the evidences adduced as Annexure-1 & 2****. However, the technical team of NFAC has to affix the relevant Digital Signature of it for its necessary forwarding through ITBA to the concerned assessee in their E-mail electronically. Accordingly, the order sheet digital footprints of FAO as recorded electronically in chronological sequence as enclosed herewith as Annexure-"1", clearly establishes & evidences that the Assessment order is indeed concluded, uploaded and generated by FAO on 28/09/2021 itself as per the date of order as mentioned in the order of FAO. Affixing Digital Signature of NFAC has indeed took some time for NFAC owing to some technical errors/glitches encountered by NFAC for its final communication to assessee as per the new scheme of Faceless Assessments under I.T. Act. In view of the same, it is submitted that the order as finalised by FAO stands passed well within the time on 28/09/2021 itself as authenticated by FAO in this electronic order sheet of ITBA along with the mail of order generation as analysed supra.*

5. Further, the FAO has also attached screen shot of mail sent to Delhi DCTT 2[1][1][NEAC] & DCIT 3[1][1][NFAC] requesting NFAC team to do needful to remove the appearance of this completed order from his worklist as per the due process. This proof is also available in ITBA system as ***"attachment"*** *in assessment proceedings module of relevant A.Y.2018-19. The same is enclosed as* ***annexure-3*** *as available in ITBA as its digital footprint. On perusal of this annexure-3, it is noticeable that, this mail has been sent on 30/09/2021 at 17.24 P.M. In this mail the FAO has clearly mentioned that the final order was generated by the AU on 28th September, 2021 itself and requested for its removal from the worklist as per the due procedure. It is clearly seen from the screenshot that the assessment order was generated prior to 30/09/2021 thereby, the same is well within the time-limit of passing of this assessment order*

6. Further, to evidence this, the IIBA clearly shows that the FAO has lodged complaint/incident no. 1477329 in IIBA helpdesk on 29/09/2021 itself at 01.39 PM stating that-

"this case of PAN-AAACB4373Q of bennett colemn Ltd. for A.Y. 2018-19 is still appearing in my worklist even after final order has been submitted. Solve it as the case is getting time barred on 30/09/2021."

It is clearly seen from the above screenshot of this complaint/incident communication of FAO, that the assessment order was finalised and generated prior to last date of passing of this assessment order as per the due provisions of the LT. Act. The proof of this IBA complaint /incident is enclosed herewith as annexure-4 for kind perusal and appreciation of the Hon'ble Bench to dismiss the averments of the appellant on this issue.

7. Further, in continuation to the above, the FAO has also lodged another complaint/incident no. 1478810 in [IBA helpdesk on 30/09/2021 at 08:40 AM. stating that -

"I have raised the incident number 1477329. However after multiple calls the case is still pending in my worklist. While I have passed the

final order in this case. It should go to CPC for final computing but it is still pending in my worklist as "approved for order generation".

It is clearly seen from the above screen shot of ITBA that assessment order was generated by FAO well within the time on its completion on 28.09.2021 itself. The proof of this ITBA complaint incident is enclosed herewith as ***annexure-5*** *for kind perusal and appreciation of the Hon'ble Bench to establish that the FAO has indeed completed the assessment order on 28.09.2021 as mentioned in his assessment order.*

8. From the above facts of the case and keeping in view of the due procedures of the faceless assessments scheme under NFAC, it is submitted that the FAO has to pass and generate the assessment order on its uploading to ITBA and thereafter NFAC has to account for the same for its necessary communication to the assessee with applicable digital signature of NFAC as part of service of order to the assessee. From these clear facts as analysed supra with digital evidences/foot prints as per annexure 1 to 5, it is amply clear that the A.O has concluded the assessment and generated the assessment order on 28th September, 2021 itself on ITBA. Thereafter, the FAO has indeed followed up with NIAC for the final service of such completed assessment order to the assessee as per the due procedure with its ITBA helpdesk/team for its removal from FAO's worklist and relevant proofs were submitted as above as per annexure 1 to 5 Considering all these facts, it clearly establishes with digital footprints that this assessment order is passed well within the time by the Assessing Officer, 1.C. FAO on 28.09.2021

9. Accordingly, in view of the above detailed factual analysis of digital proofs as available on ITBA, it is clear that the assessment order is passed by the FAQ on 28.09.2021 itself and subsequent communication to the assessee with digital signature is only to be treated as service of final assessment order of FAO dated 28.09 2021 with digital signature as per the new scheme of faceless assessments. Considering these factual matrix, provisions of law and procedure as pertains to faceless assessment scheme, the appellant contentions are far from truth, devoid of facts and merits of case as applicable to faceless assessment scheme. Accordingly, it is humbly pleaded of Hon'ble Bench to uphold the assessment order as the same is passed as per the provisions of law as enshrined under the I.T Act.

10. A careful perusal of the assessment order shows that the digital signature by one Visesh Prakash is dated 01/10/2021. The tax computation sheet again digitally signed by Visesh Prakash is dated 01/10/2021. This means that when the assessment order was made on 28/09/2021 as claimed by the AO and DR, the same was not signed. In our considered opinion, the unsigned order has no value. The notings dated 30/09/2021 by the Assessing Officer also show that due to certain technical glitches, the case has been stuck in CPC due to computation failure. The report also shows that multiple complaints were raised on the ITBA helpdesk. Even the screen shot annexed to the report show that till 30/09/2021, the case is still appearing in the work list of FAO. These evidences on record go on to show that the assessment order was not digitally signed till 01/10/2021 and the assessment order made on 28/09/2021 was unsigned.

11. The Hon'ble Supreme Court in the case of Kalyankumar Ray vs. Commissioner of Income Tax (634 ITR 191) has held that there must be some writing initialled or signed by the I.T.O. before the period of limitation prescribed for completion of the assessment has expired in which the tax payable is determined and not that the form usually styled the "assessment order" should itself contain the computation of tax as well. The relevant findings of the Hon'ble Supreme Court read as under:-

"The statute does not, however, require that both the computations (i.e. of the total income as well as of the sum payable) should be done on the same sheet of paper, the sheet that is super scribed "assessment order". It does not prescribe any form of the purpose. It will be appreciated that once the assessment of the total income is complete with indications of the deductions, rebates, reliefs and adjustments available to the assessee, the calculation of the net tax payable is a process which is mostly arithmetical but generally time consuming. If, therefore, the I.T.O. first draws up an order assessing the total income and indicating the adjustments to be made, directs the office to compute the tax payable on that basis and then approves of it, either immediately or some time later, no fault can be found with the process, though it is only when both the computation sheets are signed or initialled by the I.T.O. that the process described in Section 143(3) will be complete.

In this context, one may take notice of the fact that, initially, Rule 15(2) of the Income-tax Rules prescribed form No. 8, a sheet containing the computation of the tax, though there was no form prescribed for the assessment of the income This Sub-rule was dropped in 1964. Thereafter, the matter has been governed by departmental instructions. Under these, two forms are in vogue. One is the form of, what is described as, the "assessment order", (I.T. 30 or I.T.N.S. 65).-The other is what is described the "Income-tax Computation Form" or "Form for Assessment of Tax/Refund" (I.T.N.S. 150). The practice is that after the "assessment order" is made by the I.T.O., the tax is calculated and the necessary columns of I.T.N.S. 150 are filled up showing the net amount payable in respect of the assessment year. This form is generally prepared by the staff but it is checked and signed or initialled by the I.T.O. and the notice of demand follows thereafter. The statute does not in terms require the service of the assessment order or the other form on the assessee and contemplates only, the service of a notice of demand. It seems that while the "assessment order" used to be generally sent to the assessee, the other form was retained on file and a copy occasionally sent to the assessee. I.T.N.S. 150 is also a form for determination of tax payable and when it is signed or initialled by the I.T.O., it is certainly an order in writing by the I.T.O. determining the tax payable within the meaning of Section 143(3). It may be, as stated in CIT v. Himalaya Drug Co. [1982]135 ITR 368(All) only a tax calculation form for departmental purposes as it also contains columns and code numbers to facilitate computerization of the particulars contained

therein for statistical purposes but this does not detract from its being considered as an order in writing determining the sum payable by the assessee. We are unable to see why this document, which is also in writing and which has received the imprimatur of the I.T.O., should not be treated as part of the assessment order in the wider sense in which the expression has to be understood in the context of Section 143(3). There is no dispute in the present case that the I.T.O. has signed the form I.T.N.S. 150. We, therefore, think that the statutory provision has been duly complied with and that the assessment order was not in any manner vitiated.

A brief reference may be made to the decisions on the issue. In Shushil Chandra Ghose v. I.T.O. [1959]35 ITR 379(Cal), the assessee was served, apart from the assessment order, with a copy of the form known as I.T.N.S. 150 which was not signed by the I.T.O. but the Court upheld the assessment because the original thereof had been duly signed. In Mubarik Shah Naqshbandi v. CIT [1977]110 ITR 217, the "assessment order" did not determine the tax payable and there was no other paper or form containing the computation except the notice of demand. In R.Gopal Ramnarayan v. Third I.T.O.[1980]126 ITR 369(Kar) , the Tribunal had annulled an assessment because the tax calculations had been made on a separate sheet of paper but the Department could not raise this issue before the High Court because it had not challenged the Tribunal's order in appropriate proceedings. The Karnataka High Court, however, did have occasion later to consider the question directly and upheld an assessment made in similar circumstances in CIT v. R Giridhar[1984]145 ITR 246 (Kar) , even though the separate sheet containing the tax computations had not been signed by the I.T.O. The Punjab & Haryana High Court has also taken the same view in Karuna Rani Jain v. CIT[1989]178 ITR 321 . In CIT v. Krishwanti Punjabi [1983]139 ITR 703 (Cal) , Form No. I.T. 30 served on the assessee was not signed and the Court remitted the matter back to find out if any determination of tax had been made before the expiry of the period of limitation prescribed under the Act for the completion of an assessment. All these decisions emphasise that all that is needed is that there must be some writing initialled or signed by the I.T.O. before the period of limitation prescribed for completion of the assessment has expired in which the tax payable is determined and not that the form usually styled the "assessment order" should itself contain the computation of tax as well.

8. For these reasons, we see no reason to grant leave in these petitions which are, consequently, dismissed. We should, however, like to observe that to avoid unnecessary controversies like this, the department should, in future, adopt the salutary and useful practice of incorporating the entire tax calculations in I.T.N.S. 65 form itself or, in the alternative, make the I.T.N.S. 150 an annexure to form part the assessment order, have it signed by the I.T.O. and have it served on the assessee along with the I.T.N.S. 65. That will enable the assessee to have the full details necessary to enable him to file a proper appeal, if needed, against the order and demand. If these safeguards are not taken, there is a danger of the tax calculations being left entirely to the subordinate staff, the I.T.O., contenting himself with a cursory glance thereat. Though, largely, the tax calculations are only matters of detail and arithmetic, there do arise sometimes difficult questions of interpretation of the provisions relating to tax rates, additional tax, interest and so on and the assessee should, in all fairness, have full details regarding the computation to enable him to take further steps in the matter. We should indeed like to add that the petitioner, Shri Ray, has indeed done a great service to the public by bringing this issue up to this Court. We hope that the observations made by us would ensure, at least in future, that Income Tax Officers do not allow themselves to be indifferent to this part of the process of assessment or shirk the responsibility of verifying and authenticating the correctness of the tax computations resulting in the demand raised against the assessee."

12. The Hon'ble Supreme Court in the case of Smt.Kilasho Devi Burman vs. Commissioner of Income Tax (219 ITR 214) was seized with a situation where the Tribunal went into question as to whether there was an assessment on the H.U.F. for the Assessment year 1955-56 and *interalia* concluded (i) there was no signed assessment order.

13. The Hon'ble Supreme Court referring to the findings of the Hon'ble High Court observed as under:-

"12.The High Court based itself upon the demand notice and the acknowledgement slip signed by Phool Singh and observed, "Unless an assessment order was passed under or in pursuance of the Act question of a notice of demand on the prescribed form specifying the High Court did not give due importance to the fact that upon the record produced by the Revenue before the Tribunal there was no signed assessment from.

13.That an assessment order has to be signed is established by the judgment of this Court in Kalyankumar Ray vs. Commissioner of Income-tax, 191 I.T.R.634.It said:

> *"If, therefore, the Income-tax Officer first draws up an order assessing the adjustments to be made, directs the office to compute the tax payable on that basis and then approves of it, either immediately or some time later, no fault can be found with the process, though it is only when both the computation sheets are signed or initialled by the Income- tax Officer that the process described in section 143(3) will be complete.*

** ** **

…..All these decisions emphasis that all that is needed is that there must be some writing initialled or signed by the Income-tax Officer before the period of limitation prescribed for completion of the assessment has expired in which the tax payable is determined and not that the form usually styled as the "assessment order" should itself contain the computation of tax as well."(pp.638.640)

A valid assessment upon the H.U.F. for the Assessment Year 1955-56 was central to the case of the Revenue. Since at was unable to establish, by the production of a signed assessment order for that year, that there was such valid assessment, its case fell and the Tribunal was right in so holding. The High Court was in error in concluding that the findings of the Tribunal on the record were perverse.

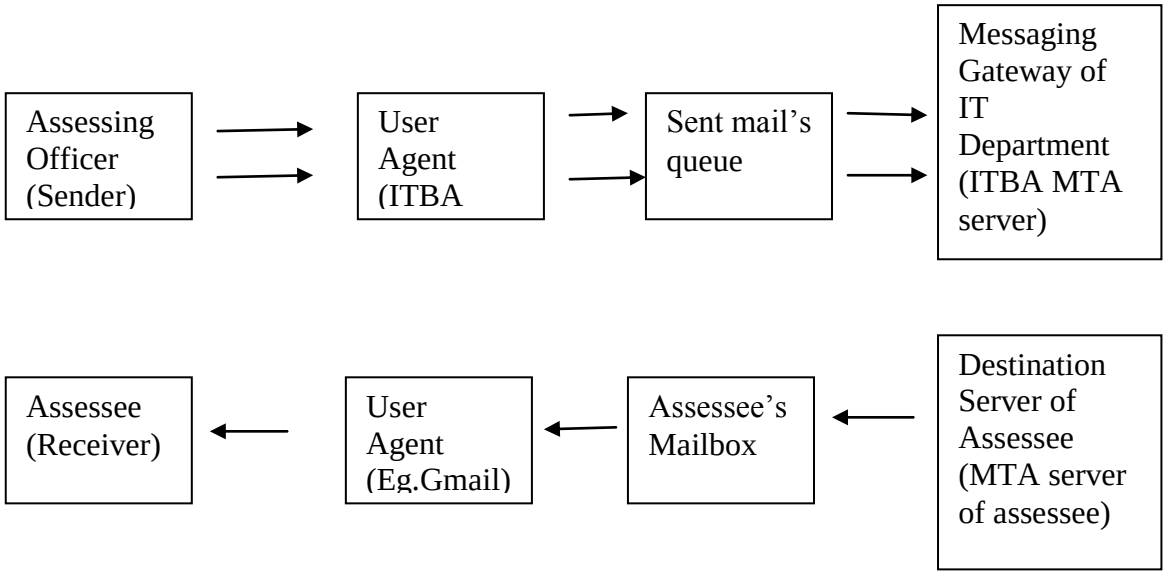
14. The contention of the DR that there are new procedures of the Faceless Assessment Scheme under NFAC and the decisions relied

upon by the Counsel are old decisions and hence, do not have much relevance under the new Scheme of Faceless Assessment. The DR strongly stated that DIN has been generated on 28/09/2021 which is there in the body of the assessment order and also in the tax computation sheet which is also dated 28/09/2021 alongwith the tax computation sheet and therefore, the assessment order was well within the period of limitation.

15. In so far as the contention that the DIN has been generated has been answered by the Hon'ble High Court of Delhi in the case of Suman Jeet Agarwal vs. Income Tax Officer (449 ITR 517) wherein the Hon'ble High Court at para 25.19 of its order has observed "*the counsel for the Department have also sought to argue that generation of a Notice with DIN on ITBA Screen conclusively indicates that the Notice has been irrevocably issued. The submission of the respondent is not borne out from the applicable circular regarding DIN issued by CBDT and is therefore a mere ipse dixit of the counsel*" and at Para 26 question No.(III)"*Whether the time taken by the ITBA's e-mail software system on 31st March 2021, in despatching the e-mails to the assessee is not attributable to the JAOs and the notices will be deemed to have been issued on 31st March, 2021?- The Court has answered this in the negative against the Department*" and the most relevant observations of the Hon'ble High Court are as under:-

"26.13 Typically, an e-mail service based on SMTP Model utilizes a chain of servers to transmit e- mail from the sender to the recipient. Once an e-mail is

drafted and the sender presses the 'send' button, the e-mail service le. the User Agent ('UA') of the sender transmits it to the Message Transfer Agents ('MTAS) Le. servers of the sender's e-mail service. Through a sequence of such MTAs le servers, the e-mail reaches the destination MTA Le server of the recipient's e- mail service. In case the recipient is using an intermediary server, it reaches the intermediary MTA ie. server of the intermediary. It thereafter, finally reaches the recipient. In the case on hand, the Department's e-mail service is the ITBA e-mail software system and the assessee's e- mail service is G-mail, Outlook etc. The ITBA e-mail software uses dedicated servers for transmitting e-mails and therefore the e-mail is despatched when the same leaves the ITBA servers for the recipient assessee's designated e-mail service servers A simplified illustration of the SMTP model showing this process, as confirmed by the counsel for the petitioners and respondents, is reproduced hereinunder:-



26.14. For the purpose of this illustration, the double arrows indicate transmission between computer resources that are of the ITBA e-mail software system and therefore, within the control of the Department; and the single arrows indicate transmission between computer resources that are within the control of for used by the assessee."

16. In light of the above, coming back to the notings on 30/09/2021 wherein the FAO admits that due to certain technical glitches, the case has been stuck in CPC due to computation failure itself show that till 30/09/2021, the assessment order was in control of the NFAC.

17. The observations of the Hon'ble Supreme Court in the case of M.M.Rubber Co. 1991 (55) E.L.T.289 is worth mentioning here and the same reads as under:-

"12. It may be seen therefore, that, if an authority is authorised to exercise a power or do an act affecting the rights of parties, he shall exercise that power within the period of limitation prescribed therefor. The order or decision of such authority comes into force or becomes operative or becomes an effective order or decision on and from the date when it is signed by him. The date of such order or decision is the date on which the order or decision was passed or made that is to say when he ceases to have any authority to tear it off and draft a different order and when he ceases to have any locus paetentiae. Normally that happens when the order or decision is made public or notified in some form or when it can be said to have left his hand. The date of communication of the order to the party whose rights are affected is not the relevant date for purposes of determining whether the power has been exercised within the prescribed time.

18. In the light of the judicial decisions discussed hereinabove, we are of the considered view that the signing of the assessment order is an integral part of order generation in e-assessment and the assessment proceedings conclude only after the order is digitally signed, therefore, signing of the assessment order should not be brushed aside lightly. Therefore, the signing of the assessment order is

a mandatory requirement and not a procedural formality unless the order is signed assessment does not complete.

19. As per the Faceless Assessment Scheme 2019 which was substituted for e-assessment by Notification No. S.O.2745(E) dated 13/08/2020 w.e.f. 13/08/2020 as per Clause xiv, the assessment unit shall, after taking into account all the relevant material available on the record make in writing, a draft assessment order and then as per Clause xvi, the National e-Assessment Centre shall examine the draft assessment order and finalise the assessment within the period of limitation. In the instant case the assessment order finalized by NFAC is dated 01/10/2021 which is obviously beyond the period of limitation.

20. In the light of the report of the Officer mentioned hereinabove, we have no hesitation to hold that the impugned assessment order dated 28/09/2021 was not made till 30/09/2021 and it was not digitally signed and was an incomplete assessment order which was completed on 01/10/2021 and hence, barred by limitation.

21. As we have held the assessment order barred by limitation, we do not find it necessary to dwell into the merits of the case.

22. Appeal of the assessee is allowed and revenue is dismissed.

Order pronounced in the Court on 30th September, 2024 at Mumbai.

Sd/-	*Sd/-*
(RAHUL CHAUDHARY)	**(NARENDRA KUMAR BILLAIYA)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Mumbai, Dated: 30/09/2024
Karuna, Sr. Ps.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीयप्रतिनिधि , **आयकरअपीलीयअधिकरण, मुंबई**/DR,ITAT, Mumbai,
6. गार्ड फाई/Guard file.

आदेशानुसार/ **BY ORDER,**
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai