**IN THE INCOME TAX APPELLATE TRIBUNAL**

**NAGPUR BENCH, NAGPUR**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**

**SHRI K.M. ROY, ACCOUNTANT, MEMBER**

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| **ITA no.212/Nag./2023**<br>(Assessment Year : 2011–12) | **ITA no.213/Nag./2023**<br>(Assessment Year : 2012–13) |
| **ITA no.214/Nag./2023**<br>(Assessment Year : 2013–14) | **ITA no.215/Nag./2023**<br>(Assessment Year : 2014–15) |
| **ITA no.216/Nag./2023**<br>(Assessment Year : 2015–16) | **ITA no.217/Nag./2023**<br>(Assessment Year : 2016–17) |

**ITA no.218/Nag./2023**
(Assessment Year : 2017–18)

Navdurga Advisory Pvt. Ltd.
103, Mangalam Icon, Cement Road
186, Shivaji Nagar, Nagpur 440 010
PAN – AACCN9619D ……. Appellant

v/s

Asstt. Commissioner of Income Tax
Central Circle–1(3), Nagpur ……. Respondent

Assessee by : Shri Rajesh Loya
Revenue by : Shri Sandipkumar Salunke

| Date of Hearing – 25/09/2024 | Date of Order – 01/01/2024 |
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**O R D E R**

**PER BENCH**

These appeals have been filed by the assessee challenging the impugned orders of even date 30/05/2023, passed by the learned Commissioner of Income Tax (Appeals)–3, Nagpur, [*"learned CIT(A)"*], for the assessment year 2011–12, 2012–13, 2013–14, 2014–15, 2015–16, 2016–17 and 2017–18 respectively.

2. Since all the seven appeals pertain to the same assessee involving common issues, except variation in figures, arising out of identical set of facts and circumstances, therefore, as a matter of convenience, these appeals were heard together and are being disposed off by way of this consolidated order. However, in order to understand the implication, it would be necessary to take note of the facts of one appeal. We are, accordingly, narrating the facts, as they appear in the appeal in ITA no.212/Nag./2023, for assessment year 2011–12.

**ITA no.212/Nag./2023**
**Assessee's Appeal – A.Y. 2011–12**

3. The assessee has raised following grounds:–

*"That the assessment order passed by the learned Asst. Commissioner of Income Tax, Central Circle 1(3), Nagpur u/s. 143(3) r.w.s. 153C is bad in law and wrong on facts and the learned CIT(A) erred in confirming the same.*

*(2) That the notice issued u/s. 153C is bad in law and wrong on facts. On the facts and circumstances of the case, the additions made by AO in the proceedings u/s.153C, in absence of incriminating document found in relation to assessee as a result of search, are improper and unjustified. The additions made are void-ab-initio and bad in law and the learned CIT(A) erred in confirming the same.*

*(3) That the learned CIT(A) erred in law and on facts in upholding the order passed by AO without providing proper opportunity of being heard and not properly considering the facts of the case and evidences available on record. On facts and circumstances of the case, the action of learned CIT(A) is highly unjustified.*

*(4) That the learned CIT(A) erred in law and on facts in confirming the addition of Rs.7.50 Cr. made by AO u/s.68 of the Income Tax Act. The transactions of sale of shares are duly supported by documentary evidence and the source of amount received is fully substantiated by legal and cogent evidence and therefore the action of both the authorities in treating the same as unexplained cash credit is improper and unjustified.*

*(5) That the learned CIT(A) erred in law and on facts in confirming the addition of Rs.2,70,50,000/- made by AO u/s. 68 of the Income Tax Act. The share application money received is duly supported by documentary evidence and the source of amount received is fully substantiated by legal and cogent*

*evidence and therefore the action of both the authorities in treating the same as unexplained cash credit is improper and unjustified.*

*That the learned CIT(A) erred in law and on facts in sustaining the action of AO in holding that the creditworthiness of the companies purchasing shares is not satisfactorily explained and that the transactions of share application money are not genuine. On the facts and circumstances, the action of both the authorities is merely on the basis of conjecture and surmises.*

*(7) That the learned CIT(A) erred in law and on facts in confirming the action of AO in disallowing remuneration to director of Rs. 15,70,000/- holding that no business is carried out by the company. On the facts and circumstances, the action of both the authorities is arbitrary and merely on the basis of conjecture and surmises.*

*(8) That the learned CIT(A) erred in law and on facts in confirming the action of AO in charging interest u/s. 234B of the Income Tax Act. The interest charged is improper.*

*(9) That for any other ground with kind permission of your honour at the time of hearing of appeal."*

4. When these appeals were taken up for hearing, the learned Counsel for the assessee submitted that the learned CIT(A) passed an ex-parte order and prayed that one more opportunity may be given to the assessee to substantiate its case before the learned CIT(A).

5. On the other hand, the learned D.R. submitted that the learned CIT(A) has given sufficient opportunities have been provided to the assessee and despite that the assesse did not appear before the learned CIT(A) and not filed relevant details. He strongly supported the orders passed by the learned CIT(A).

6. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. We find that though the learned CIT(A) gave several opportunities to the assessee, ultimately, the order passed by him is an ex-parte order. Therefore, we are of the opinion

that by following the principles of natural justice, one more opportunity should be given to the assesse to substantiate his case before the learned CIT(A). In view of the above, the order passed by the learned CIT(A) is set aside and remit the matter to the file of the learned CIT(A) and direct him to adjudicate the matter afresh after providing reasonable opportunity of being heard to the assessee. It is also directed that the assessee should not seek adjournment without there being a justified reason and attend the hearings as and when directed by the learned CIT(A). Accordingly, all the grounds raised by the assessee in this appeal for ay 2011–12 are allowed for statistical purposes.

7. In the result, appeal filed by the assessee for ay 2011–12 is allowed for statistical purposes.

**ITA no.213 to 218/Nag./2023**
**Assessee's Appeals – A.Y. 2012–13 to 2017–18**

8. After haring both the parties and on a perusal of the material available on record, we find that identical issues have been raised by the assessee in its appeal being ITA no.212/Nag./2023, for the assessment year 2011–12, wherein, vide Para–6, we have restored the entire issues to the file of the learned CIT(A) for denovo adjudication. Cconsistent with the view taken therein, we set aside the impugned orders passed by the learned CIT(A) for the captioned assessment years with similar directions. Thus, all the appeals for A.Y. 2012–13, 2013–14, 2014–15, 2015–16, 2016–17 and 2017–18, are allowed for statistical purposes.

9. In the result, all the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 01/01/2024

| **Sd/-** | **Sd/-** |
|---|---|
| **K.M. ROY** | **V. DURGA RAO** |
| **ACCOUNTANT MEMBER** | **JUDICIAL MEMBER** |

**NAGPUR, DATED: 01/01/2024**

*Copy of the order forwarded to:*

*(1) The Assessee;*

*(2) The Revenue;*

*(3) The PCIT / CIT (Judicial);*

*(4) The DR, ITAT, Nagpur; and*

*(5) Guard file.*

True Copy
By Order

*Pradeep J. Chowdhury*
*Sr. Private Secretary*

Sr. Private Secretary
ITAT, Nagpur