

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "B" BENCH

**Before: Shri T.R. Senthil Kumar, Judicial Member
And Shri Narendra Prasad Sinha, Accountant Member**

**ITA No. 1032/Ahd/2023
Assessment Year 2017-18**

Luft Technocast Limited 189, Ilaben Farm Estate, Nr. Arvee Deniem, B/H Ruby Marble, Narol, Sarkhej Road, Narol, Gujarat-382405 PAN: AANCS0914K (Appellant)	Vs	The ITO, Ward-2(1)(3), Ahmedabad (Respondent)
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**Assessee Represented: Shri Mehul Thakkar, A.R.
Revenue Represented: Shri Vishnu Kulkarni, Sr. DR**

Date of hearing : 13-08-2024
Date of pronouncement : 15-10-2024

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the appellate order dated 12.10.2023 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the assessment order passed under section 144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2017-18.

2. The brief facts of the case is that the assessee is a company did not file its Return of Income for the Asst. Year 2017-18. Since the assessee had made cash deposits in its bank account during demonetization period, therefore a notice u/s. 142(1) was issued to the assessee to file its Return of Income. However, the assessee failed to response the earlier notices however filed a Return of Income on 10.06.2019. The return was treated as non-est by the Assessing Officer since the same is filed beyond the due date u/s. 139 of the Act. The Assessing Officer found total credit entry of Rs.3,99,23,401/- in the bank accounts of the assessee which included cash deposit of Rs.18,50,000/- during demonetization period and Rs.16,35,000/- during non-demonetization period. Since the assessee failed to file replies to the Assessing Officer, he made cash credit entries in the bank account to be unexplained money and added entire Rs. 3,99,23,401/- as the total income of the assessee and demanded tax thereon.

3. Assessee filed appeal before Ld. NFAC but failed to appear before the Appellate Authority thereby dismissed the appeal filed by the assessee for non-prosecution.

4. Aggrieved against the same, assessee is in appeal before us raising the following Grounds of Appeal:

1. The Ld. A.O. has erred in law and facts in treating the income tax return filed in response to the notice issued under section 142(1) of the Act as non-est. The Ld. NATIONAL FACELESS APPEAL CENTRE ("NFAC") has further erred in confirming the action of the assessing officer.

2. The Ld. A.O. has erred in law and facts in framing the assessment under section 144 of the Income Tax Act, despite the fact that details/explanation called for, were duly submitted during the course of assessment proceeding. The NFAC has further erred in confirming the action of the assessing officer.

3. The Ld. A.O. has erred in fact in not considering the reply filed in response to the Show- Cause Notice (SCN) stating that the appellant company failed to respond the SCN. The Ld. A.O. further erred in not granting an opportunity of being heard despite the fact that the specific request was made for the same, in the response filed against SCN. Therefore, the action of the assessing officer is arbitrary and in violation of principle of natural justice. The NFAC has further erred in confirming the action of the assessing officer.
 4. The Ld. A.O. has erred in law and facts in making addition of Rs. 3,99,23,400/- under section 69A of the Act despite the fact that detailed bank book and cash book was submitted during the course of assessment proceeding explaining each and every credit. The NFAC has further erred in confirming the action of the assessing officer.
 5. The appellant craves leave to add, alter or delete any ground either before or in the course of hearing of the appeal.
5. Ld. Counsel Shri Mehul Thakkar appearing for the assessee submitted before us a Notarized Affidavit filed by the Director of the Company stating that the assessee company has discontinued its operation since last five years and the last Annual General Meeting (AGM) was convened on 30-09-2016 enclosing copy of Ministry of Corporate Affairs. Since then, the assessee Company has not filed its Annual returns with the Registrar of Companies. Further the audit and taxation work of the assessee Company was previously handled by Piyush J. Shah & Co., Chartered Accountant. The registered email ID of the Company on the Income Tax Business Application (ITBA) Portal was pjshahca@rediffmail.com and vishesh@pjshahca.com, created and operated by Chartered Accountant. Thus the accounts of the assessee were last audited for the financial year ending on 31-03-2021 by Piyush J. Shah & Co. and no statutory audit has been conducted thereafter. The hearing notices u/s. 250 of the Act were served on the above-mentioned email ID of the Chartered Accountant. Thus the

assessee Company was unaware due to the discontinuation of operations and lack of communication with the erstwhile Auditor. Thus the assessee requested to provide an opportunity of hearing to the assessee to explain its case before the Lower Authorities. The Ld. Counsel filed a Paper Book which contain the copy of ITR and computation of total income and copy of notices issued u/s. 142(1) dated 30.05.2019, 26-08-2019, 16-09-2019 and show cause notices dated 24-09-2019 and 05-12-2019 and the respective replies filed by the assessee. Therefore requested to set aside the matter back to the file of Ld. NFAC to pass order on merits of the case.

6. Ld. Sr. D.R. appearing for the Revenue strongly opposed the prayer of the assessee and requested to confirm the addition made by the Assessing Officer

7. We have carefully considered the submissions of rival parties and also perused the Paper Book filed by the assessee and also Affidavit explaining the non-appearance of the assessee before Ld. NFAC. It is seen from the Paper Book the assessee had explained in detail the cash deposits made during the entire year as well as during demonetization period. It is seen from the bank statement, the Assessing Officer has only considered the cash deposits in Canara Bank Account but not considered the withdrawals and payments made from the above bank account. Thereby the Ld. A.O. made entire credits the bank account as unexplained addition of Rs.3,99,23,401/-. Since the assessee has filed relevant documents before the Ld. A.O., but the assessee failed to appear before Ld.

NFAC, we deem it fit to set aside the matter back to the file of Ld. NFAC to decide the appeal on merits by giving proper opportunity of hearing to the assessee. Needless to say, the assessee should make use of this final opportunity of hearing by filing all required details before Ld. NFAC for passing order on merits.

8. In the result, the appeal filed by the Assessee is allowed for statistical purpose.

Order pronounced in the open court on 15-10-2024

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER
Ahmedabad : Dated 15/10/2024

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद