IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "D" MUMBAI

BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
MS. KAVITHA RAJAGOPAL (JUDICIAL MEMBER)

ITA No. 3844/MUM/2023
Assessment Year: 2007-08

ITO-28(2)(1), Room No. 326, 3rd floor, Tower No. 6, Vashi Railway Station Complex, Vashi-400703. **Appellant**	**Vs.**	Mukesh Baldevraj Bajaj, Flat No. A-301, Neel Siddhi Tower, Plot No. 195, Sector-12, Vashi-400703. **PAN NO. AEMPB 1761 K** **Respondent**

Assessee by	:	None
Revenue by	:	Mr. R.R. Makwana, Sr. DR

Date of Hearing	:	14/10/2024
Date of pronouncement	:	14/10/2024

ORDER

PER OM PRAKASH KANT, AM

This appeal has been preferred by the Revenue against order dated 30.08.2023 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short 'the Ld. CIT(A)'] for assessment year 2007-08, raising following grounds:

1. Whether on the facts and in the circumstances of the case and in law, the Ld. NFAC (Ld.CIT(A)) is justified in allowing the appeal of the

assessee by not following the directions of the Hon'ble ITAT contained in its order dated 02.03.2012.

2. Whether on the facts and in the circumstances of the case and in law, the Ld. NFAC (Ld.CIT(A)) erred in allowing appeal of assessee holding that provision of section 41(1) are not applicable ignoring the fact that the Hon'ble ITAT and the CIT(A) had already held/admitted that provisions of section 41(1) are not applicable to the facts of the case and the Ld.CIT(A) failed to decide the • issue on the line whether advance received towards booking by the various persons in the earlier year and as reflected in balance sheet are genuine or not.

3. Whether on the facts and in the circumstances of the case and in law, the Ld. NFAC/Ld.CIT(A) erred in allowing appeal of assessee by not following the directions of the Hon'ble ITAT by not bringing on record balance sheet of earlier years of proprietary concern duly supported by documentary evidences of the amount received and part payment towards discharging of liabilities claimed by the assessee.

4. The Appellant submits that the impugned order dated 30.08.2023 passed by the Ld. NFAC, is bad-in-law and it is deserved to be quashed and the addition made by the assessing officer is liable to be upheld.

2. At the outset, the Ld. Departmental Representative (DR) submitted that tax effect involved in the present appeal is less than the threshold amount of Rs.60 lakhs, which has been prescribed for filing appeal before the ITAT vide CBDT Circular No. 09/2024 dated 17.09.2024, which applies to the pending appeals also and therefore, he submitted that appeal of the Department might be treated as withdrawn.

3. We have heard rival submission of the parties and perused the relevant material on record. The tax effect involved in the present appeal is Rs.53,42,414/-, which is below the threshold limit of Rs.60 lakhs prescribed for filing appeal as per CBDT Circular No. 09/2024 dated 17.09.2024, accordingly, the appeal of the Revenue is dismissed as withdrawn. However, in case the appeals falls under

any of the exceptions provided in para 3 of the said Circular (supra), the Revenue is at liberty for seeking recall of the appeal by way of a Miscellaneous Application.

4. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open Court on 14/10/2024.

Sd/-	**Sd/-**
(KAVITHA RAJAGOPAL)	**(OM PRAKASH KANT)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Mumbai;
Dated: 14/10/2024
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

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

BY ORDER,

//True Copy//

(Assistant Registrar)
ITAT, Mumbai