

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "B", MUMBAI  
BEFORE SMT BEENA PILLAI, JUDICIAL MEMBER  
AND  
SMT RENU JAUHRI, ACCOUNTANT MEMBER  
ITA No.2745/M/2024  
Assessment Year: 2018-19**

<b>Shri P. K. Vinod Kumar</b> Ass. Commissioner of Income Tax, Circle- 2(1)(1), Mumbai	<b>Vs.</b>	<b>M/s. Better value Leasing &amp; Finance Ltd.</b> 801, Mahalaxmi Chambers, 22 Bhulabhai Desai Road, Mahalaxmi.- 400026. <b>PAN: AAACB4410A</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

**Present for:**

**Assessee by** : Shri Anil Sathe

**Revenue by** : Shri Kailash C. Kanojiya, CIT DR

**Date of Hearing** : 08.10.2024

**Date of Pronouncement** : 30.10.2024

**ORDER**

**Per Beena Pillai, JM:**



Present penalty appeal is filed by the revenue against order dated 27/03/2024 passed by NFAC Delhi for assessment year 2018-19 on following grounds of appeal.

**Brief facts of the case are as under:**

2. Assessee filed its return of income for year under consideration on 28.09.2018 reporting total income of Rs.1,18,08,600/-. The case was selected for scrutiny and statutory notices were issued to the assessee u/s.142(1) and 143(2) of the act. In response to said notices, the assessee filed adjournment letter praying time to file requisites as the office was closed due to covid 19 lockdown.

2.1 The Ld.AO however did not grant opportunity to the assessee and complete the assessment by making addition of Rs. 1,29,00,394/- disallowing the professional/consultancy receipts as not incurred for the purposes of business of the assessee us 37 of the Act. The Ld.AO also disallowed sum of Rs. 108,88,62,567/-as unexplained cash credits u/s.68 of the act since assessee failed to discharge the primary onus u/s.68. The Ld.AO disallowed the interest paid by the assessee on loans amounting to Rs.6,66,49,584 claimed as allowable expenditure by the assessee.

Aggrieved by the order of the Ld.AO, assessee preferred appeal before the Ld.CIT(A)/NFAC.

2.2. The Ld.CIT(A) upon perusal of documents/evidences allowed the claims made by the assessee and deleted additions by observing that assessee discharged its onus casts upon it by providing proof of identity, creditworthiness and genuineness of the transactions. In respect of the disallowances deleted pertaining to professional fees paid and other expenditure that was incurred, the Ld.CIT(A) was of the opinion that the copies of the bill furnished by the assessee establishes the nature of services rendered to be business expenditure.

Aggrieved by the order of the Ld.CIT(A)/NFAC, the revenue is an appeal before the tribunal.

2.3. The primary contentions of the Ld.DR is that assessee never furnished any documents before the Ld.AO and that the assessment order passed was u/s. 144B of the act r.w.s. 143(3). It is submitted that evidences filed by the assessee if any were not remanded to the Ld.AO by the first appellate authority nor any verification was carried out by Ld. CIT(A)/NFAC on its own.

2.4. It is submitted that the documents and evidences submitted by the assessee vide letter dated 19.03.2021 and 31.03.2021 based on which the Ld.CIT(A)/ NFAC allowed the claim of assessee. It is submitted by the Ld.DR that the first notice was issued by NFAC on 28.12.2021 to furnish any additional submissions. Thereafter another notice was further issued on 13.02.2024, to make

additional submissions. The Ld. DR submitted that the impugned order is silent on what documents were furnished by the assessee.

2.5. The Ld.DR referring to Para 7.2.1 of the impugned order submitted that, the Ld.CIT(A) recorded that the assessee furnished details with explanation of professional fees paid to various people by its letter dated 19.03.2021 and 31.03.2021 which were examined by NFAC/Ld.CIT(A). It is the submission of the Ld. DR that, the appeal was never instituted before the NFAC/Ld.CIT(A) at the relevant date mentioned in para 7.2.1 by the first appellate authority. And the submissions that the first appellate authority refers to is a wrong date. It is ALSO NOT discernable regarding verification that has been carried out by the FAA/NFAC in respect of documents filed.

2.6. Similarly, in respect to addition deleted pertaining to unsecured loans and the interest expenditure claimed by the assessee on such loans, the details furnished by the assessee has not been properly verified in accordance with law. The Ld.DR thus prayed for the issues to be remanded for the *denovo* verifications.

2.7. On the contrary, the Ld.AR submitted that the evidences relied by the Ld.CIT(A)/NFAC to grant relief are clinching evidences that were specifically called for. It is submitted that, once the Ld.CIT(A) / NFAC himself calls for any evidences, there is no requirement to refer them to the Ld.AO or call for any remand report in respect of the same. In support, the Ld.AR relied on the decision of the



Hon'ble Mumbai *Tribunal* in case of ITO us. Industrial Roadways reported in [2008] 112 ITD 2019 and the decision of Hon'ble Hyderabad Tribunal in case of DCIT us. NE Technologies India (P.) Ltd. Reported in [2014] 47 taxmann. Com 405. He thus submitted that, the order passed by the Ld.CIT(A)/NFAC is to be upheld.

We have perused the submissions advanced by both sides in light of records placed before us.

3. We have noted the dates on which the notices were issued by the NFAC/Ld.CIT(A), and the dates on which the assessee made submissions. The dates mentioned by the Ld.CIT(A)/NFAC in para 7.2.1 could be typographic mistake. We agree with the argument of the Ld.AR that, if any additional evidence/documents are furnished before the Ld.CIT(A)/NFAC, it is not mandatory to call for a Powers indes remand report as the Ld.CIT(A)/ NFAC has co-terminus powers under the act to verify such evidences/documents under the act. appeals

3.1. However in the present facts, it appears from the impugned order that, no such verification was carried out by the Ld.CIT(A)/NFAC, in respect of evidences/documents furnished by the assessee. In the interest of justice under such circumstances we deem it appropriate to remand this issue to the Ld.AO for necessary verification and to consider the issues de novo. Needless to say that proper opportunity of being heard must be granted to the assessee in accordance with law.



**Accordingly the grounds raised by the assessee stands partly allowed for statistical purposes.**

**In the result the appeal filed by the revenue stands partly allowed for statistical purposes.**

Order pronounced in the open court on 30.10.2024.

**Sd/-  
RENU JAUHRI  
JUDICIAL MEMBER**

**Sd/-  
BEENA PILLAI  
ACCOUNTANT MEMBER**

Mumbai, Dated: 30.10.2024.  
*Snehal C. Ayare, Stenographer*

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)

**ITAT, Mumbai**