

आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, KOLKATA

BEFORE SONJOY SARMA, JUDICIAL MEMBER
&
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 976/KOL/2024
Assessment Year: 2013-14

Csquare Retail India Pvt. Ltd. C/o SBAV & Associates 7/1A Grant Lane, 2 nd Floor, Room No.202, Kolkata-700012	Vs	ACIT, Additional/ Joint/ Deputy/ Assistant Commissioner of Income Tax/ Income- tax, Officer, National Faceless Assessment Centre, Delhi
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Vinit Jalan, AR
Revenue by :	Shri Loviesh Shelley, DR

सुनवाई की तारीख/**Date of Hearing** : 24.10.2024
घोषणा की तारीख /**Date of Pronouncement** : 04.11.2024

आदेश/O R D E R

PER SONJOY SARMA, JUDICIAL MEMBER:

The captioned appeal filed by the assessee, pertaining to assessment year 2013-14 is directed against the order passed by the National Faceless Appeal Centre, Delhi (hereinafter referred to as the '1d. CIT(A)') dated 4th March, 2024 passed u/s 250 of the Income Tax Act, 1961 ('Act'), which is arising out of the assessment order passed u/s 147 of the Act dated 3rd September, 2021.

2. The assessee has raised following grounds of appeal:-



“1. That, on the facts and circumstances of the case and in law, the learned Commissioner of Income-tax (Appeals) - NFAC, Delhi has erred in dismissing the appeal by passing ex-parte order by concluding that the appellant remained unresponsive during assessment proceedings for the assessment order under consideration. Tax Effect - N.A.

2. That on the facts and circumstances of the case and in law, the learned Commissioner of Income-tax (Appeals) - NFAC, Delhi has erred in dismissing the appeal by passing ex-parte order by concluding that the appellant has not filed appeal in time. Tax Effect - N.A.

3. That on the facts and circumstances of the case and in law, the learned Commissioner of Income-tax (Appeals) - NFAC, Delhi has erred in dismissing the appeal ex-parte without adjudicating any grounds of appeal raised by appellant. Tax Effect - N.A.

4. That on the facts and circumstances of the case and in law, the learned Commissioner of Income-tax (Appeals) - NFAC, Delhi has erred in dismissing the appeal by passing ex-parte order without proper and effective adjudicating the case on merits. Tax Effect - N.A.

5. That on the facts and circumstances of the case and in law, the learned Commissioner of Income-tax (Appeals) - NFAC, Delhi has erred in dismissing the appeal ex-parte without passing any comment on merit stated in the statement of facts and grounds of appeal. Tax Effect - N.A.

6. That on the facts and circumstances of the cases and in in law, the learned Commissioner of Income-tax (Appeals) - NFAC, Delhi has erred in dismissing the appeal ex-parte is against the principal of natural Justice. Tax Effect - N.A.

7. That on the facts and circumstances of the case and in law, the Ld. CIT (A) NFAC, Delhi has erred in dismissing the appeal ex-parte without adjudicating ground of appeal for the action of the Assessing Officer in the initiation of proceedings and issue of notice u/s. 147/148 which was illegal, mechanical, based on borrowed satisfaction, without application of mind, and unsustainable in law as well as on merits. Tax Effect - N.A.

8. That on the facts and circumstances of the case and in law, the Ld. CIT (A) NFAC, Delhi has erred in dismissing the appeal ex-parte without adjudicating ground of appeal for the action of the Assessing Officer for passing assessment order u/s. 147 which was illegal, based on borrowed satisfaction, without and bad in law as well as on facts, liable to be quashed. Tax Effect - N.A.

9. That on the facts and circumstances of the case and in law, the learned Commissioner of Income-tax (Appeals) - NFAC, Delhi has erred in dismissing the appeal ex-parte without adjudicating ground of appeal for action of the Assessing Officer without first supplying the documents which forms the basis of reason to believe in issuing notice u/s 148 is bad in law. Tax Effect - N.A.

10. For that in the facts and in law the Ld. CIT(A) erred in confirming action of AO for addition of Rs.56,40,000/- being amount received on Sale of Investment for Rs.56,00,000/- and Rs.40,000/- deposited in bank out of cash balance as unexplained cash credit u/s 68 and thus income of the assessee. This addition was uncalled for and unwarranted and hence the same be deleted. Tax Effect Rs. 17,39,210/-.

11. For that in the facts and in law the Ld. CIT(A) erred in confirming action of AO for addition of Rs.56,40,000/- ignoring the fact that the purchases of investment was accepted by the Income Tax Esquare Retail India Pvt. Ltd. Department in the past by passing the scrutiny assessment. And the assessment order under consideration cannot be passed in isolation by accepting purchases and disputing the sale. This addition was uncalled for and unwarranted and hence the same be deleted. Tax Effect Rs. 17,39,210/-.

12. That on the facts and circumstances of the case and in law, the Ld. CIT (A) NFAC, Delhi has erred has erred in dismissing the appeal ex-parte without adjudicating ground of appeal for the action of Id. AO for addition Rs.56,40,000/- u/s 68 of the 1. T. without supplying statement recorded at the back of the assessee and affording opportunity of cross examination. Tax Effect - Rs. 17,39,210/-.

13. That the CIT(A) erred in confirming the interest u/s 234A/B of the Income Tax Act, 1961 the same was unjustified and hence the same be deleted or recalculated as per law. Tax Effect Rs.18,26,160/-.

14. The appellant craves leave to produce additional evidences in terms of Rule 29 of the Income Tax (Appellate Tribunal) Rules 1963. Tax Effect - N.A.

15. The appellant craves to press new, additional grounds of appeal or modify, withdraw any of the above grounds at the time of hearing of the appeal. Tax Effect - N.A.”

3. At the outset, the learned Authorized Representative of the assessee stated that the impugned order passed by learned CIT (A), Kolkata, was dismissed, without considering the contention of the assessee, by simply dismissing the appeal of the assessee without adjudicating on the merit of the case. Therefore, instant appeal may be set aside to the file of the CIT (A) with a direction to re-examine the issue afresh after giving proper opportunity to the assessee to present its case before learned CIT (A) and adjudicate the matter on the merits of the case.

4. On the other hand, the learned Departmental Representative did not object to such prayer made by the assessee before the Bench.

5. We after hearing the submission of the parties and perusing the material available on record, we find that instant impugned order passed by NFAC was dismissed without looking into the



merits of the case by simply dismissing the appeal of the assessee. We therefore, feel it necessary and in the larger interest of justice and being fair to both the parties, deem it appropriate to restore the issue raised on merits to the file of the Id. CIT (A) for necessary adjudication for which reasonable opportunity to be provided to the assessee to furnish the reply and file relevant details and evidences if needed. It is further clarify that assessee should also not seek any adjournments unless otherwise required for reasonable cause. The appeal of the assessee is allowed for statistical purposes.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Court on 4th November, 2024 at Kolkata.

Sd/-

**(SANJAY AWASTHI)
ACCOUNTANT MEMBER**

Kolkata, Dated 04.11.2024

***SS, Sr.Ps**

Sd/-

**(SONJOY SARMA)
JUDICIAL MEMBER**

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. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

TRUE COPY

आदेशानुसार/ BY ORDER,

**Sr. PS/ Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata**