

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "G": NEW DELHI  
BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 1264/Del/2024  
(Assessment Year: 2010-11)**

S. D. Auto Components Pvt. Ltd, Vs. Dy. CIT,  
Plot No. 177, Sector 24, Faridabad  
Faridabad, Haryana

(Appellant)

(Respondent)

**PAN:AAKCS1406P**

Assessee by : Dr. Rakesh Gupta, Adv  
Shri Somil Agarwal, Adv

Revenue by: Shri Mritunjay Prasad Dwivedi, Sr. DR

Date of Hearing 23/10/2024

Date of pronouncement 14/11/2024

O R D E R

**PER M. BALAGANESH, A. M.:**

1. The appeal in ITA No.1264/Del/2024 for AY 2010-11, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. NFAC', in short] in Appeal No. ITBA/NFAC/S/250/2023-24/1055355459(1) dated 23.08.2023 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 28.03.2013 the Assessing Officer, ACIT, Range-II, Faridabad (hereinafter referred to as 'Id. AO').

2. Though the assessee had raised several grounds of appeal before us, the preliminary issue raised by the assessee is that the orders have been passed by the lower authorities without providing adequate opportunity of being heard to the assessee, thereby violating the principles of natural justice. Further we find that the assessee had also raised additional

grounds stating that the Id NFAC erred in not accepting the additional evidences filed by the assessee under Rule 46A of the Income Tax Rules, 1962

3. We have heard the rival submissions and perused the materials available on record. The Assessee Company for the assessment year 2010-11 filed its Return of Income electronically on 30-09-2010 declaring total income of Rs. 26,96,790/-. During the course of assessment proceedings, the Assessee produced the books of accounts along with bills and vouchers together with subsidiary records which were examined by the Learned AO on test-check basis. The Assessee is engaged in the business of manufacturing of auto components. The Learned AO observed that Assessee has received a sum of Rs. 3,03,95,000/- towards share capital / share premium during the year under consideration from 10 parties. The Assessee was asked to submit the confirmation from the aforementioned from the 10 investor companies together with copy of income tax returns, ledger accounts, bank statements and also to prove the three ingredients of section 68 of the Act viz. identity of the investors, credit worthiness of the investors and genuineness of transactions. The Assessee filed only the confirmation from all the investors, on perusal of which, the Learned AO observed that the copy of the confirmations of all the investor companies were printed in the same font and most of the investor companies do not have any phone number reflected in their letterhead. The address of the Assessee has been wrongly shown in the confirmation issued by the investor companies and accordingly the Learned AO entertained a doubt with regard to the veracity of the confirmations filed by the Assessee and proceeded to conclude that three ingredients of section 68 of the Act were not proved by the Assessee and accordingly made an addition of Rs.

3,03,95,000/- as unexplained cash credit under section 68 of the Act in the assessment completed under section 143(3) of the Act.

4. Before the Learned NFAC, the Assessee furnished additional evidences furnishing all the requisite details with regard to each of the investor companies under Rule 46A of the Income Tax Rules. These additional evidences are enclosed in pages 479 to 485 of the paper book filed before us. The Learned NFAC sought for a remand report from the Learned AO with regard to these additional evidences. The Learned AO submitted its remand report objecting to the admission of these additional evidences by stating that sufficient opportunities were indeed given to the Assessee during the course of assessment proceedings itself. The Learned NFAC observed that Assessee was not prevented by sufficient cause from producing all these additional evidences and accordingly concluded at the end of Para 5.5 of its order that these additional evidences cannot be accepted as per Rule 46A of the Income Tax Rules. Consequentially, the Learned NFAC proceeded to uphold the decision of the Learned AO in making an addition under section 68 of the Act.

5. Before us, the Learned AR vehemently pleaded that all the requisite documents that were called for by the Learned AO were duly placed on record in the form of additional evidences filed before the Learned NFAC which came to be not accepted by the Learned NFAC. It was submitted that those additional evidences go to the root of the matter and would be crucial for adjudication of the issue in dispute. Accordingly, the Learned AR pleaded for an effective opportunity to be granted to the Assessee before the Learned AO with a direction to the Learned AO to admit those additional evidences and decide the issue in dispute in accordance with law.

6. Considering the totality of the facts and circumstances of the case, we deem it fit and appropriate to restore this appeal to the file of Learned AO for de novo adjudication in accordance with law. The additional evidences filed by the Assessee before the Learned CITA which stood not accepted by him may be filed before the Learned AO and Assessee is also given liberty to furnish further evidences, if any ,in support of its contentions. The Learned AO is hereby directed to examine all the evidences that are brought on record in the set aside proceedings and decide the issue in dispute in accordance with law. With these directions, the grounds raised by the Assessee are allowed for statistical purposes.

7. In the result, the appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open court on 14/11/2024.

-Sd/-  
**(SAKTIJIT DEY)**  
**VICE PRESIDENT**

-Sd/-  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated: 14/11/2024  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi

Date of dictation	
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