

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “B” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &  
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA Nos.1553, 1554 &1616/Ahd/2024  
Assessment Years: 2012-13, 2014-15 & 2014-15**

Hari Krushna Machintech Private Limited, Plot No.2101, Vatva GIDC, Vatva Industrial Estate, Vatva, Ahmedabad – 382 445. <b>[PAN – AABCH 5667 G]</b>	Vs.	The Deputy Commissioner of Income Tax, Circle – 2(1)(1), Ahmedabad.
(Appellant)		(Respondent)
Assessee by	Shri Aseem L. Thakkar, AR	
Revenue by	Smt. Mamta Singh, Sr. DR	
Date of Hearing	20.11.2024	
Date of Pronouncement	11.12.2024	

**ORDER**

**PER SUCHITRA KAMBLE, JUDICIAL MEMBER:**

These three appeals are filed by the Assessee against three different orders dated 11.07.2024, 11.07.2024 & 12.07.2024 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Years 2012-13, 2014-15 & 2014-15 respectively.

2. All these appeals are on identical facts and, therefore, we are taking brief facts of Assessment Year 2012-13 in ITA No.1553/Ahd/2024. In this appeal, the assessee has raised the following grounds :-

- “1. *The Learned Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi has erred in passing an Ex Parte Order dismissing the appeal without providing reasonable opportunity of being heard to the appellant. Hence the same being against the principles of natural justice and equity requires to be quashed.*

2. *The Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the action of the Assessing Officer in issuing notice us. 148 of the Income Tax Act, 1961 which is illegal and bad in law and hence the assessment so made requires to be quashed.*
3. *The Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the action of the Assessing Officer in reopening the assessment only on the basis of information shared by the ADIT (Inv). Unit-2(2), Ahmedabad vide letter dtd. 13/03/2019 in respect of inquiries made by the Investigation Wing in the case OM Surgical, A.V. Sales and Dishant Trading and assessee.*
4. *The Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the action of the Assessing Officer in reopening the assessment and passing an order u/s.143(3) r.w.s.147 of the Income Tax Act, 1961 without providing reasonable opportunity of being heard to the appellant hence the same being against the principles of natural justice and law requires to be quashed.*
5. *The Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in confirming action of the Assessing Officer in computing the total income at Rs.13,65,22,658/- as against that of Rs1,80,65,490/- declared by the appellant in the return of income filed on 29/09/2012.*
6. *The Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the addition of Rs.11,84,57,168/- made by the Assessing Officer treating the purchases from A.V. Sales as alleged bogus purchases holding that the A.V. Sales has not carried out any purchase and sales during the year.*
7. *The Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the addition of Rs.11,84,57,168/-made by the Assessing Officer treating the purchases from A.V. Sales as bogus and treating the corresponding sales as genuine which is self contradictory in nature.*
8. *The Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the addition of Rs.11,84,57,168/- made by the Assessing Officer treating the purchases made by the appellant as non genuine without pointing out any defect in the audited books of account and without rejecting the books of account of the appellant.*
9. *The Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the action of the Assessing Officer in completing the re-assessment without providing copy of material, documents, information relied upon by him. Hence the*

*assessment so made being against the principles of natural justice and equity requires to be quashed.*

10. *The Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the action of the Assessing Officer in making addition without considering the fact that the said purchases have been duly considered while computing the net profit, income of the appellant.*
11. *The Appellant craves leave to add, alter, amend or modify any of the grounds of appeal on or before the date of hearing of appeal.”*

3. The assessee filed its return of income for Assessment Year 2012-13 on 29.09.2012 declaring total income of Rs.1,80,65,490/- which was processed under Section 143(1) of the Income Tax Act, 1961. As per the information, in the case of M/s. OM Surgical, M/s. AV Sales, M/s. Dishant Trading and M/s. Hari Krushna Machintech Pvt. Ltd. i.e. the assessee, the Assessing Officer observed that the assessee alongwith other beneficiaries was involved in non-genuine/bogus purchases of Rs.11,84,57,168/- during the year under consideration in circular trading wherein huge funds were changed from AV Sales to OM Surgical to Dishant Trading to Hari Krushna Machintech i.e. the assessee and again back to AV Sales wherein the amount has been shown in the garb of sales and purchases from one entity to other. Notice under Section 148 of the Act was issued after prior approval of the competent authority for reopening. In compliance to notice under Section 148 of the Act, the assessee filed its return on 26.04.2019, declaring income of Rs.1,80,65,490/-. The assessee was asked to furnish certain details which was not furnished and hence the Assessing Officer observed that since the assessee failed to establish the genuineness of the purchases made and no reply was filed, the said purchase of Rs.11,84,57,168/- from AV Sales was only a bogus purchase to reduce income. Thus, addition of Rs.11,84,57,168/- was made to the total income of the assessee vide Assessment Order dated 18.12.2019.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the CIT(A) has passed ex-parte order without giving proper opportunity to the assessee and, therefore, the matter may be remanded back to the file of the CIT(A) for proper adjudication of the issues on merit.

6. The Ld. DR relied upon the Assessment Order and the order of the CIT(A). The Ld. DR further submitted that the assessee was given ample opportunity, but the same was not availed by the assessee and hence the CIT(A) has rightly dismissed the matter on merit.

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the assessee has requested time for submitting the relevant documents in support of its case and it appears that the CIT(A) has not taken cognisance of the information/evidences given by the assessee and, therefore, it will be appropriate to remand back this matter to the file of the CIT(A), after taking cognisance of the evidences filed by the assessee and adjudicate the same as per income Tax Statute. Needless to say, the assessee be given opportunity of hearing by following the principles of natural justice.

8. Thus, ITA No.1553/Ahd/2024 filed by the assessee for Assessment Year 2012-13 is partly allowed for statistical purpose.

9. As regards ITA No.1554/Ahd/2024 & ITA No.1616/Ahd/2024 for Assessment Years 2014-15 for both, the same are also ex-parte and hence these appeals are also remanded back to the file of the CIT(A) for proper adjudication of the issues contested therein, after verifying the evidences filed by the assessee as per the Income Tax Statute. Needless to say, the assessee be given opportunity of hearing by following the principles of natural justice. Thus, ITA Nos.1554 & 1616/Ahd/2024 filed by the assessee for Assessment Years 2014-15 for both are partly allowed for statistical purposes.

10. In the result, all the three appeals filed by the assessee are partly allowed for statistical purposes.

Order pronounced in the open Court on this 11<sup>th</sup> December, 2024.

Sd/-  
**(DR. BRR KUMAR)**  
Vice President

Sd/-  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 11<sup>th</sup> December, 2024**

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Copies to: (1) *The appellant*  
(2) *The respondent*  
(3) *CIT*  
(4) *CIT(A)*  
(5) *Departmental Representative*  
(6) *Guard File*

*By order*

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*Assistant Registrar*  
*Income Tax Appellate Tribunal*  
*Ahmedabad benches, Ahmedabad*