

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "F" BENCH : MUMBAI

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER
AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER

ITA No. 861/Mum/2024
Assessment Year : 2011-12

Virbac Animal Health India Private Limited, 6 th Floor, Western Edge, Western Express Highway, Borivali East S.O., Mumbai. PAN : AACCV2316F	vs.	Deputy Commissioner of Income Tax, Circle-3(3)(1), Aayakar Bhavan, Mumbai.
(Appellant)		(Respondent)

For Assessee :	Shri Dharan Gandhi
For Revenue :	Shri Paresh Deshpande, Sr.DR

Date of Hearing :	18-12-2024
Date of Pronouncement :	19-12-2024

ORDER

PER B.R. BASKARAN, A.M :

The assessee has filed this appeal challenging the order dt.29-12-2023 passed by the Ld. Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)’] and it relates to AY. 2011-12.

2. At the outset, we notice that the Ld.CIT(A) was constrained to pass an *ex-parte* order, since the assessee did not appear before him. Accordingly, the Ld.DR prayed that all the issues contested in this appeal may be restored to the file of the Ld.CIT(A) for adjudicating them afresh.

3. The Ld.AR submitted that the impugned assessment order does not contain DIN and hence, the same shall be rendered invalid. Accordingly, he prayed that the above said legal issue may be decided by the Tribunal.

4. The Ld.DR, on the contrary, submitted that the AO has issued a letter stating that the DIN has been generated and the said DIN shall be common for all the documents relating to the relevant order and its annexures.

5. The Ld.AR, however, submitted that such kind of generation of DIN separately has been held to be not correct as per the decisions of the Hon'ble Bombay High Court in the case of Ashok Commercial Enterprises vs. ACIT in W.P. No. 2595 of 2021, dt. 4th Sept. 2023.

6. We heard the parties and perused the record. Since the Ld.CIT(A) has passed the order *ex-parte*, without the presence of assessee, we are of the view that, in the interest of natural justice, the assessee may be provided with one more opportunity to present its case properly before the Ld.CIT(A). Since the assessee is urging legal issue with regard to non-applicability of DIN in the assessment order passed by the AO and since the Revenue is contending that the DIN generated by the AO is common for all the orders and annexures, we are of the view that this legal issue may also be decided by the Ld.CIT(A) as per law. Accordingly, the assessee is given liberty to raise all the legal issues before the Ld.CIT(A), who shall

dispose of the appeal in accordance with law, after affording adequate opportunity of being heard to the assessee. We also direct the assessee to fully co-operate with the Ld.CIT(A) for expeditious disposal of this appeal.

7. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 19-12-2024

Sd/-
[ANIKESH BANERJEE]
JUDICIAL MEMBER

Sd/-
[B.R. BASKARAN]
ACCOUNTANT MEMBER

Mumbai,

Dated: 19-12-2024

TNMM

Copy to :

1.	The Appellant
2.	The Respondent
3.	The Pr. CIT, Mumbai concerned
4.	D.R. ITAT, "F" Bench, Mumbai
5.	Guard File.

//By Order//

//True Copy //

Dy./Asst. Registrar,
ITAT, Mumbai