

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'SMC' BENCH, KOLKATA**

Before Shri Duvvuru RL Reddy, Vice-President (KZ)

**I.T.A. No. 1644/KOL/2024
Assessment Year: 2011-2012**

***Daffodil Tower Pvt. Limited,.....Appellant
4B, Castle House, 5/1A, Hungerford Street,
Circus Avenue, Kolkata-700017
[PAN:AACCD8389C]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-7(1), Kolkata***

Appearances by:

*Shri Anil Kumar Kochar, A.R., appeared on behalf of the
assessee*

*Shri L.N. Dash, JCIT, Sr. D.R., appeared on behalf of the
Revenue*

**Date of concluding the hearing: December 10, 2024
Date of pronouncing the order: December 27, 2024**

O R D E R

The present appeal is directed at the instance of assessee against the order of ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 27th June, 2024 passed for Assessment Year 2011-12.

2. Brief facts of the case are that the assessee is a Company which filed its return of income under section 139(1) of the Income Tax Act, 1961 for the assessment year 2009-10 on 28.09.2009. In

the return of income, the assessee company did not claim any loss for the assessment year under consideration. The said return was processed under section 143(1) of the Act determining a refund to the tune of Rs.61,468/-. Subsequently the assessee company revised its return of income under section 139(5) of the Act on 20.09.2010 and claimed a loss of Rs.6,82,393/- and the same was processed under section 143(1) of the Act without allowing the loss to be carried forward. Thereafter the assessee-company filed return of income for the assessment year 2010-11 claiming brought forward loss to the tune of Rs.6,82,393/- for the assessment year 2009-10 and a loss of Rs.2,89,166/- as current year loss. The said return was processed under section 143(1) of the Income Tax Act on 04.02.2011. Subsequently the assessee filed return of income for the assessment year 2011-12 claiming a current loss of Rs.9,71,559/-. Current loss to the tune of Rs.9,71,559/- was not allowed while processing the return of income under section 143(1) of the Income Tax Act, 1961 on 20.01.2012. Thereafter the assessee filed a grievance and in response to the said grievance, order under section 154 was passed by the ld. Assessing officer rejecting the petition of the assessee-company on 27.10.2022.

3. Being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals). After considering the submissions of the assessee, the ld. CIT(Appeals) dismissed the appeal filed by the assessee.

4. Being aggrieved, the assessee preferred an appeal before the ITAT and raised the following grounds:-

- (1) That the ld. CIT(A), National Faceless Appeal Centre, Delhi, was not justified in dismissing the appeal.*
- (2) That ld. CIT(A) should have provided sufficient opportunity of being heard.*
- (3) That the ld. CIT(A) has misunderstood the matter and thus dismissed the appeal. The matter earlier rejected by the ld. CIT(A) was different, and that this appeal was filed against an order of the ld. ITO and therefore the first appeal lies with the ld. CIT(A).*
- (4) That the ld. CIT(A) should have appreciated the fact that the appeal was filed before him against the order passed by the ld. ITO and that mere mention of the ld. ITO in his order of an appeal filed earlier on same issue, but against a separate order, cannot equate both the orders.*

5. I have heard both the sides. It was the submission of the assessee that the ld. CIT(Appeals) has not given sufficient opportunity of being heard to the assessee and pleaded not to uphold the order of ld. CIT(Appeals).

6. On the other hand, ld. D.R. submitted that the assessee was provided sufficient opportunities. Therefore, he pleaded to uphold the order of ld. CIT(Appeals).

7. I have perused the material available on record. The main grievance of the assessee is that the ld. CIT(Appeals) has not provided sufficient opportunity of being heard to the assessee. Therefore, ld. Counsel for the assessee pleaded one more opportunity of being heard to the assessee regarding set off the current year's loss. Considering the above facts and circumstances

of the case and to examine the issue afresh, I am of the considered view that it is a fit case to remit the matter back to the file of ld. Assessing Officer to examine the issue afresh and to pass an appropriate order on merits after providing an opportunity of being heard to the assessee.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 27/12/2024.

Sd/-

(Duvvuru RL Reddy)
Vice-President (KZ)

Kolkata, the 27th day of December, 2024

*Copies to :(1) Daffodil Tower Pvt. Limited,
4B, Castle House, 5/ 1A, Hungerford Street,
Circus Avenue, Kolkata-700017*

*(2) Income Tax Officer,
Ward-7(1), Kolkata*

(3) CIT(Appeals), NFAC, Delhi;

(4) CIT - , Kolkata;

(5) The Departmental Representative;

(6) Guard File

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By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.