



IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER
AND
SHRI MANOMOHAN DAS, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.101/GTY/2024
Assessment Year : 2017-18

Michael C Lalmuanpuia, Proprietor of Lushai Engineers, H.No. Y-165, Vanhlira Bldg, Ramhlun South, Mizoram-796-012, Assam PAN : AAEFL9933F	Vs.	ITO Ward-1, Silchar, Assam
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by:	Shri B.L. Purohit, FCA
Department by:	Shri Kaushik Ray, JCIT
Date of hearing:	27.11.2024
Date of Pronouncement:	20.01.2025

आदेश / ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The captioned appeal pertaining to Assessment Year 2017-18 at the instance of assessee is directed against the order dated 19.03.2024 passed by National Faceless Appeal Centre, Delhi u/s.250 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') which in turn is arising out of Assessment Order



dated 22.03.2022 passed u/s.147 r.w.s.144 r.w.s.144B of the Act.

2. Briefly stated, the facts of the case are that the assessee is stated to be proprietor of the firm Lushai Engineers carrying on the business of Construction Contractor in Mizoram. The assessee belongs to a Tribal community and did not file the return of income u/s.139(1) of the Act. Based on the information available as per CIB/26AS, the Assessing Officer noticed that the assessee made following transactions :

<i>S.No.</i>	<i>Nature of Transaction</i>	<i>Amount involved</i>
1	<i>Deposit in Current account</i>	8503620
2	<i>Cash withdrawal from cash account</i>	120686263
3	<i>Investment in Mutual Fund</i>	9913373
4	<i>Interest Income</i>	161145

2.1 Statutory notice u/s.148 was served after recording satisfaction and obtaining permission from the competent authority. Notices u/s.143(3)/142(1) were also served on the assessee, however, there was no compliance by the assessee. In the circumstances, ld. AO was constrained to complete the



assessment u/s.147 r.w.s.144 of the Act after making various additions aggregating to Rs.61,11,71,160/-.

3. Aggrieved assessee preferred appeal before the ld.CIT(A)/NFAC who vide impugned order affirmed the action of the Assessing Officer in making additions.

4. Now the assessee is in appeal before us.

5. At the outset, ld. Counsel for the assessee submitted that there were certain additional evidences which the assessee intends to file before this Tribunal which goes to the root of the matter and an opportunity may be granted for going before the ld.CIT(A)/NFAC for examining of the evidences. He also submitted that the ld.CIT(A)/NFAC has treated the concern namely Lushai Engineers as a Partnership firm however it is a sole proprietary concern of the assessee who is a Tribunal person and eligible for exemption u/s.10(26) of the Act.

6. On the other hand, ld. Departmental Representative vehemently argued supporting the orders of the authorities below.

7. We have heard both the sides and perused the record placed before us. We note that the assessee is claiming to be a Tribal person and is contending from the beginning that due to



his ignorance and wrong advice PAN was wrongly applied in the name of Firm Lushai Engineers as a Partnership Firm. Otherwise, it is submitted that the assessee is eligible for exemption u/s.10(26) of the Act. The appellant is not well conversant with the procedure and income-tax laws and therefore was not aware of the notices of hearing. Thus, he could not participate in the proceedings which resulted in passing of *exparte* orders. It is the submission of the Id. Counsel for the assessee that the assessee can file all the details along with evidences to substantiate his claims to the satisfaction of the Assessing Officer. Considering the facts and circumstances prevailing in the instant case, without dwelling into merits of the case, the issues on merits are being remitted back to the file of Id. NFAC for *denovo* adjudication after affording reasonable opportunities to the appellant, in accordance with law. If necessary, the Id. CIT(A)/NFAC may call for the remand report from the Jurisdictional Assessing Officer and obtain the objections from the assessee to such remand report and decide the case. The assessee is at liberty to file any evidence in support of his claim as deemed expedient. The assessee is also directed to remain vigilant and not to take adjournment unless otherwise required for reasonable cause, failing which the Id. CIT(A)/NFAC shall be free to proceed in



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accordance with law. Finding of the Id. CIT(A)/NFAC is set aside and Effective grounds of appeal raised by the assessee are allowed for statistical purposes.

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

Order pronounced on this 20th day of January, 2025.

Sd/-

(MANOMOHAN DAS)
JUDICIAL MEMBER

दिनांक / Dated : 20th January, 2025

Satish

Sd/-

(MANISH BORAD)
ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “, Guwahati” बेंच,
/ DR, ITAT, Guwahati Bench
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Assistant Registrar