

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER
आयकर अपील सं./ITA No.2358 /Chny/2024
निर्धारण वर्ष /Assessment Years: 2012-13

UFX Ventures Private Limited,
No.33/1, Wallajah Road,
Chepauk,
Chennai-600 002.
[PAN: AABCC4581E]

Deputy Commissioner of Income Tax,
Corporate Circle-3(2),
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by

: Ms.Shilpa Susan Kuraichan, CA

प्रत्यर्थी की ओर से /Revenue by

: Ms.Sheila Parthasarthy, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 04.12.2024

घोषणा की तारीख /Date of Pronouncement

: 22.01.2025

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/NFAC/S/250/2024-25/1066180820(1) dated 28.06.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment years 2012-13. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 28.06.2024 passed by NFAC, Delhi.

2.0 It has been noted that there is a delay of 12 days in the case, in filing of this appeal before the tribunal. In its affidavit the Director of assessee Company has pleaded that there was a family function at the native place as a result of which appeal got delayed .All these activities

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contributed to the delay which was neither willful nor wanton. The assessee submitted that there will not be case of any non-compliance now. We have considered the justification put forth by the assessee and we are satisfied with their adequacy. We are also conscious of the fact that no litigant gains by intentionally delaying its own matters. The Ld. DR did not pose any serious objections to the delay. Accordingly, we hereby condone the delay and proceed to adjudicate this appeal.

3.0 The assessee has raised 12 grounds of appeal out of which ground of appeal number 1 is general in nature and does not require any a specific adjudication. During the course of appellate proceedings, the Ld. Counsel for the assessee submitted that the ground of appeal No.2 is not pressed.

4.0 The only issue thus raised by the assessee through its grounds of appeal Nos. 3 to 12 are regarding an addition of Rs.6,53,12,921/- made by the Ld. AO under various heads by way of disallowances and additions. The Ld. Counsel for the assessee informed that the Ld. AO has passed order u/s 143(3) dated 30.03.2015 in its case making the impugned additions on account of being not satisfied with the explanations submitted. The Ld. Counsel submitted that the Ld. First Appellate Authority, had asked the Ld. AO to submit a remand report and as the same was not furnished, proceeded to confirm the impugned

addition. It was submitted that in para 5 of the appellate order it was noted that the Ld.CIT(A)-11, Chennai had vide his letter dated 14.02.2017 remanded the matter to the Ld.AO for submission of remand report. This requisition was made qua appellant's submissions that reasonable opportunity was not given before making the additions. The Ld. CIT(A) recorded on page 6 of his appellate order that "*....it is seen that no remand report has been submitted in this case even after the lapse of 7.5 years and considering that sufficient opportunity have been given to the appellant to substantiate his ground of appeal during the course of this appellate proceedings, the appeal is hereby decided on merits on the basis of material available on records and submission filed by the appellant...*".

4.0 We have heard rival submissions in the light of material available on records. It has been pleaded that the Ld. CIT(A) ought to have waited for submission of remand report by the Ld. AO. It was accordingly requested that the matter be set aside to the Ld.CIT(A) for readjudication. The assessee through its paper book placed on record various documents in support of its contentions. It is an undisputed fact of the case that the Ld.AO has not submitted his remand report even after a staggering 7-8 years of delay and which compelled the Ld.CIT(A) to pass his order without waiting for the same. The Ld.CIT(A) has observed that

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notwithstanding the Ld.AO's remand report, he has given necessary opportunities to the assessee. The issue however is that the assessee had challenged before the Ld.CIT(A) that he was not given opportunity of being heard by the Ld.AO, a fact which contributed to requisition of remand report. No doubt, the Ld.AO has wasted 7 to 8 years of precious time in not submitting his report, however, the Ld.CIT(A) ought to have escalated the matter to the Ld.AO's supervisory authorities for timely compliance. Merely exhibiting helplessness in non-receipt of remand report cannot be a case for confirming the impugned additions.

4.1 Be that as it may be we are of the view that the interest of justice would be met if the assessee is given one more opportunity to defend its case before the Ld.CIT(A). Consequently, we set aside the order of lower authorities and direct the Ld.CIT(A) to readjudicate the matter after obtaining remand report from the Ld. AO. He may like to take up the issue of the Ld.AO non-compliance with his supervisory authorities, request for immediate submission of remand report and also of fixing the responsibility for hitherto made non-submission. The CIT(A) shall give due opportunity of being heard to the assessee and the assessee shall comply with all the notices of the Ld.CIT(A). Any non-compliance on the part of the assessee, shall be adversely viewed. **Accordingly, grounds**

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of appeal nos. 3 to 12 raised by the assessee are allowed for statistical purposes.

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

Order pronounced on 22nd, January-2025 at Chennai.

Sd/-

(एबी टी. वर्की)

(ABY T VARKEY)

न्यायिक सदस्य / Judicial Member

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 22nd, January-2025.

KB/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT - Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF