

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGARAO, JUDICIAL MEMBER AND
SHRIK.M. ROY, ACCOUNTANT, MEMBER

ITA no.361/Nag./2024
(Assessment Year : 2015-16)

Indounique Flame Ltd.
301, Kothari Bhavan
WHC Road, Dharampeth
Nagpur 440 010 PAN – AAACI3496D

..... Appellant

v/s

Dy. Commissioner of Income Tax
Circle-1, Nagpur

..... Respondent

Assessee by : Shri Himesh Demle
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 07/01/2025

Date of Order – 27/01/2025

ORDER

PER V. DURGA RAO, J.M.

This appeal by the assessee is emanating from the impugned order dated 02/05/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2015-16.

2. In its appeal, the assessee has raised following grounds:-

"1. That, on the facts and in the circumstances of the case and as per the prevailing law, the order framed u/s 250 of the I.T. Act, 1961 by the Ld. CIT(A) is unjustified, bad-in-law, and devoid of proper reasoning.

2. That, on the facts and in the circumstances of the case and as per the prevailing law, the Ld. CIT(A) ought to have provided an opportunity of being heard before framing the order u/s 250 of the I.T. Act, 1961.

3. That, on the facts and in the circumstances of the case and as per the prevailing law, the Ld. CIT(A) erred in confirming the addition made by the Ld. A.O. of Rs.1,29,08,000/- u/s 50C of the I.T. Act, 1961.

4. That, on the facts and in the circumstances of the case and as per the prevailing law, the e prevailing law, the CIT(A) erred in confirming the order of the Ld. A.O. in interpreting the application of provisions of sec 50C of the I.T. Act, 1961 to specified capital assets.

5. That, on the facts and in the circumstances of the case and as per the prevailing law, the Ld. CIT(A) erred in upholding the order and contention of the Ld. A.O. that the assessee is the absolute owner of the land under consideration, whereas, the assessee holds merely leasehold rights.

6. That, the assessee carves to, leave to, add to, alter, amend, modify, substitute, delete, and/or, rescind any of the ground/grounds of the appeal on or before the final hearing of the appeal.

3. When this appeal is taken up for hearing, the learned A.R. appearing for the assessee submitted that the learned CIT(A) passed an ex-parte order without granting sufficient opportunity for hearing and prayed that one opportunity may be granted by restoring the matter to the file of the learned CIT(A) to enable the assessee to substantiate its case before the learned CIT(A).

2. On the other hand, the learned D.R. submitted that despite the learned CIT(A) provided sufficient opportunities to the assessee, however, the assessee did not appear before the learned CIT(A) and not furnished relevant details. He strongly supported the orders passed by the learned CIT(A).

3. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. We find that though the learned CIT(A) granted opportunities to the assessee to substantiate its case, ultimately, the order passed by him is an ex-parte order. Therefore, we are of the opinion that by following the principles of natural justice, one

opportunity should be given to the assessee to substantiate the case before the learned CIT(A). In view of the above, the order passed by the learned CIT(A) is set aside and remit the matter to the file of the learned CIT(A) and direct him to adjudicate the matter afresh on merit and in accordance with law after providing reasonable opportunity of being heard to the assessee. It is also directed that the assessee should not seek adjournment without there being a justified reason. Accordingly, all the grounds raised by the assessee in this appeal are allowed for statistical purposes.

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

Order pronounced in the open Court on 27/01/2025

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED: 27/01/2025

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur