

| आयकर अपीलीय अधिकरण न्यायापीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT
&
SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
I.T.A. No. 6390/Mum/2024
Assessment Year: 2018-19

Assistant Commissioner of Income Tax	Vs	M/s. Winning Moves Toys & Games Pvt. Ltd. 304, Third Floor Hub Town Viva Jogeshwari East Mumbai - 400060 [PAN: AABCW5602L]
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	None
Revenue by :	Shri Pushkaraj Bhangapatil, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 06/02/2025
घोषणा की तारीख /Date of Pronouncement: 13/02/2025

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

This appeal by the revenue is preferred against the order of the NFAC, Delhi [hereinafter 'the ld. CIT(A)'] dated 07/10/2024 pertaining to AY 2018-19.

2. The grievance of the revenue reads as under:-

"1. "Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) is right in deciding appeal in assessee's favour disregarding the fact that the assessee is non-filer for the year under consideration?"

2. "Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has right in not considering that no explanation in relation to imports made to tune of Rs.1,11,92,073/- was furnished during the proceedings u/s.148A of the Act and assessment proceedings?

3."The Appellant craves leave to add, amend and/or vary grounds of Appeal before or during the course of hearing."

3. None appeared on behalf of the assessee in spite of notice. We decide to proceed *ex-parte*.
4. Briefly stated the facts of the case are that the assessee is a company which has not filed its return of income for the assessment year under consideration and as per the information on Insight Portal under the category High Risk Non-filers, the AO initiated re-assessment proceedings by issuing notice u/s 148A of the Act and accordingly statutory notices were issued and served upon the assessee. The AO gave several opportunities but the assessee remained unresponsive forcing the AO to frame a best judgment assessment u/s 144 of the Act. Since the AO was in possession of the information of transactions under the PAN of the assessee amounting to Rs.1,11,92,073/- and in the absence of any details, the transactions with respect to import amounting to Rs.1,11,92,073/- was treated as assessee's own undisclosed and unexplained expenditure u/s 69C of the Act and the additions were made.
5. The assessee agitated the matter before the ld. CIT(A) and furnished necessary details as additional evidence which contained the following:-

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Statements of Citibank Account No: 0-0XX6XX-X11

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6. The Id. CIT(A) called for the remand report vide notice dated 27/06/2024. Reminders were given on 16/07/2024, 30/07/2024, 13/08/2024 and 30/08/2024 but no response was received from the AO. Thereafter, the Id. CIT(A) proceeded by examining the factual details furnished by the assessee and after considering the details and examining the same, the Id. CIT(A) observed "*Upon perusal of those documents, it is evident that the addition made by the AO is not maintainable. Section 69C of the IT Act cannot be invoked for this kind of transaction. It is a deeming provision that deals with unexplained expenditure that is not recorded in the books of*

accounts. In the present case the appellant company has submitted entire details in support of their accounts and import. When the additional evidences are forwarded, the AO is failed to submit any remand report. Hence, the AO is directed to delete this addition."

7. After giving thoughtful consideration to the findings of the Id. CIT(A), we are of the considered view that powers of the Id. CIT(A) are co-terminus to that of the AO and after examining the details furnished by the assessee, the Id. CIT(A) was convinced with non-application of the provision of Section 69C of the Act. This act of the Id. CIT(A) cannot be faulted with. Therefore, the effective grounds raised by the revenue are dismissed.

8. In the result, appeal of the revenue is dismissed.

Order pronounced in the Court on 13th February, 2025 at Mumbai.

Sd/-

(SAKTIJIT DEY)
VICE-PRESIDENT

Sd/-

(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 13/02/2025

Sd/-

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai