

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C", MUMBAI**

BEFORE SHRI ABY T VARKEY, HON'BLE JUDICIAL MEMBER

AND

SHRI S. RIFAUR RAHMAN, HON'BLE ACCOUNTANT MEMBER

ITA NO. 3170/MUM/2023 (A.Y: 2011-12)

M/s Concise Exim Private Limited B-426, 4 th Floor, NBC Complex Plot No. 43, Sector- 11 CBD Belapur, Thane- 400614 PAN: AADCC5668A	v.	Income Tax Officer, Ward 2(1) Thane- 400614
(Appellant)		(Respondent)

Assessee Represented by	:	None
Department Represented by	:	Shri H.M. Bhatt
Date of conclusion of Hearing	:	05.03.2024
Date of Pronouncement	:	13.03.2024

ORDER

PER S. RIFAUR RAHMAN (AM)

1. This appeal is filed by the assessee against order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter in short "Ld. CIT(A)"] dated 11.07.2023 for the A.Y.2011-12.

2. Assessee has raised following grounds in its appeal: -

"1. That the order dated 11.07.2023 passed u/s 250 of the Income tax Act, 1961 (hereinafter called the "Act") by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi is against law and facts on the file in as much as he has not justified to uphold the action of the Ld. Assessing Officer in resorting the reassessment proceedings and issuing notice under section 148 of the Act since the notice issued under section 148 is bad in law.

2. That the order dated 11.07.2023 passed u/s 250 of the "Act" by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi is against law and facts on the file in as much as he was not justified to uphold the action of the Ld. Assessing Officer, Ward 2(1), Thane in adding back a sum of Rs. 31,00,00,000/- received by the Appellant Company as share capital/premium from various companies by treating the said receipt as an alleged unexplained cash credit u/s 68 of the Act on the ground that the Appellant Company has, allegedly, failed to prove the identity, creditworthiness of the investors and genuineness of the transactions by ignoring the import of the exhaustive submissions alongwith documentary evidence filed both during the assessment and first appellate proceedings.

3. That the Appellant craves to add, amend, alter, modify or delete any or all of the grounds of appeal before or at the time of hearing."

3. At the outset, we observe from the record that, inspite of issue of notice none appeared on behalf of the assessee nor any adjournment was sought. Therefore, we proceed to dispose of this appeal with the assistance of Ld.DR.

4. Ld. DR brought to our notice relevant facts of the case and relied on the orders of the lower authorities. Further, Ld. DR submitted that assessee has not utilized the opportunity provided by the Ld.CIT(A), therefore, the order passed by Ld. CIT(A) is exparte order.

5. Considered the submissions of Ld. DR and material placed on record. On a perusal of the assessment order and Ld.CIT(A) order, we find that even though the Ld.CIT(A) provided opportunity on several occasions, assessee could not appear nor complied to the notices issued. Further, we observe that certain documents were filed before Ld. CIT(A) but the same were not considered in adjudication. Considering the totality of facts and keeping in view the additions / disallowance made by the Assessing Officer, we are of the opinion that assessee should be given one more opportunity of being heard. Accordingly, in the interest of justice we are of the view that this matter should go back to the file of the Ld. CIT(A) for proper verification as per law. Assessee shall cooperate with the proceedings before the Ld. CIT(A) without taking unnecessary adjournments. Needless to say that the Ld.CIT(A) shall give adequate opportunity of being heard to the assessee. Thus, this appeal is restored to the file of the Ld. CIT(A) accordingly.

6. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 13th March, 2024.

Sd/-
(ABY T VARKEY)
JUDICIAL MEMBER

Mumbai / Dated 13.03.2024
Giridhar, Sr.PS

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum