

आयकर अपीलिय अधिकरण "सी" न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, PUNE

BEFORE Dr. MANISH BORAD, ACCOUNTANT MEMBER  
AND  
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.814/PUN/2025  
निर्धारण वर्ष / Assessment Year: 2018-2019

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| Man Truck & Bus India<br>Private Limited,<br>Level 3, Malpani Agile, Pan<br>Card Club Road, Baner,<br>Pune-411045<br>Maharashtra<br><br>PAN-AAECM6932E<br>Appellant | Vs | DCIT, Circle 7,<br>Pune<br><br><br><br><br><br>Respondent |
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|--------------------------|---|-----------------------------------|
| Assessee by              | : | Shri Harsh R Shah                 |
| Revenue by               | : | Shri Prakash L Pathade,<br>CIT-DR |
| Date of hearing          | : | 24.04.2025                        |
| Date of<br>pronouncement | : | 02.05.2025                        |

**आदेश/ORDER**

**PER DR. MANISH BORAD, ACCOUNTANT MEMBER :**

This appeal at the instance of assessee is directed against the order u/s 250 of the Act dated 09.01.2025 for Assessment Year 2018-19 framed by Ld. CIT(A), Pune 13 and is arising out of assessment order passed by NFAC, Delhi (AO) u/s 143(3) r.w.s 144C(3) of the Income Tax Act, 1961 herein after referring as Act, dated 08.11.2021.

2. Assessee has raised following grounds of appeal:-

1. On the facts and in the circumstances of the case and in law, the Hon'ble CTT(A) has erred in not appreciating that even while disposing of the appeal ex parte, the Hon'ble CIT(A) was duty bound to dispose of the appeal on merits. Accordingly, the Order passed by the Hon'ble CIT(A) without going

*through the detailed statement of facts, grounds of appeal and the submissions dated 2 ebruary 2012 and 9 January 2025 cannot be sustained.*

*2. On the facts and in the circumstances of the cave and in law, the Hon'ble CIT(A) errad by upholding the order passed by the leamed AO ('assessment order) in relation to transfer pricing adjustment of INR 33,03,75,100 wahout appreciating that the same is not sustainabile owing to the Unilateral Advance Pricing Agreement (APA) executed by the Appellant with the CBDT on 21 December 2021 and the modified return of income fled by the Appellant on 31 March 2022.*

*3. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in not appreciating that no disallowance of INR 17,16,421 was warranted since the said amount was on account of notional interest recorded in the statement of profit and loss due to Ind AS adjustment.*

*4. On the fects and in the circumstances of the case and in law, the Hon'ble CTT(A) erred in not appreciating that no disallowance of INR 1,84,90,300 was warranted since the sald amount was excess prevision that was written back.*

*5. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in not appreciating that the Appellant ought to be granted allowance of brought forward loss and unabsorbed depreciation.*

*6. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) failed to appreciate that the learned AO has erred in considering the erroneous computation of total income in intimation issued under 143(1) of the Act while passing the final assessment order.*

*7. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in not appreciating that the Appellant ought to have been granted due credit of TDS, resulting in consequential refund along with interest.*

*8. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) failed to appreciate that the learned AO has erred in initiating penalty proceedings under section 270A of the Act.*

*The above grounds are Independent and without prejudice to one another. The Appellant cravess leave to add, amend, vary, omit or substitute any of*

*the aforesaid grounds of appeal at any time before or at the time of hearing of appeal, so as to enable the Hon'ble Income-tax Appellate Tribunal to decide this appeal according to law.*

3. At the outset Ld. Counsel for the assessee stated that the impugned order is *ex- parte* and Ld. CIT(A) has not given any findings on merits of the case. Therefore prayed for providing one more opportunity for pleading the case before Ld. CIT(A) on various grounds of appeal raised in Form 35 filed before Ld. CIT(A) on 17.12.2021.

4. Per contra Ld. DR was fair enough in not opposing the genuine request made by Ld. counsel for the assessee.

5. We have heard rival contentions and perused the record placed before us.

6. Impugned order is *ex-parte*. Assessee did not attend to the first date of hearing fixed on 21.02.2024 and thereafter filed adjournment on dates fixed on 22.07.2024 and 10.12.2024 and on the final date of hearing given on 09.01.2025, in the absence of any representative, Ld. CIT(A) framed the impugned order on the very same date giving reference to various decisions including that of Hon'ble Apex Court in the case of *B.Bhattacharyajee & another (118 & ITR 461)* and concluded the appellant proceedings by confirming the order of the AO without specifically dealing with the various grounds of appeal raised by the assessee. Hon'ble Jurisdictional High Court in the case of *PCIT(C) Vs. Prem Kumar Arjundas Luthra (huf) (2017) 297 CTR 614 (Bombay)* has held that Ld. CIT(A)NFAC is obliged to dispose the appeal on merits even in the *ex-parte* order. Examining the impugned order in light of the above judgement, we find that Ld. CIT(A) failed to deal with merits of the case and did not passed a speaking order. We also note that the assessee

has also not made proper compliance before Ld. CIT(A) and therefore in the larger interest of justice and being fair to both the parties , we deem it appropriate to remit all the issues raised on merits of the case challenging the additions made by the AO back to the file of Ld. CIT(A) for necessary adjudication as contemplated in section 250(6) of the Act for which proper opportunity of hearing shall be granted to the assessee. Assessee is also directed to remain vigilant and not to take unnecessary adjournment unless otherwise required for reasonable cause. Effective grounds of appeal raised by the assessee are allowed for statistical purposes.

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

Order pronounced on this 02<sup>nd</sup> day of May, 2025.

Sd/-  
**(ASTHA CHANDRA)**  
**JUDICIAL MEMBER**

Sd/-  
**(MANISH BORAD)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated: 02<sup>nd</sup> May, 2025.

*Neeta*

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, "C" बेंच,  
पुणे / DR, ITAT, "C" Bench, Pune.
5. गार्ड फाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.