

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य एवं सुश्री एस.पद्मावती,, लेखा सदस्य के समक्ष
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Ms. S. Padmavathy, Accountant Member

आयकर अपील सं./I.T.A. No.1403/Chny/2025
निर्धारण वर्ष/Assessment Year: 2018-19

Asia Coke Private Limited,
Bascon Futura SV, 4th Floor,
Venkatanarayana Road, T. Nagar,
Chennai 600 017.

Vs. The Deputy Commissioner of
Income Tax,
Corporate Circle 1(1),
Chennai.

[PAN: AAKCA4655Q]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Ms. S. Sanchita, Advocate
प्रत्यर्थी की ओर से/Respondent by : Ms. E Pavuna Sundari, CIT
सुनवाई की तारीख/ Date of hearing : 11.12.2025
घोषणा की तारीख /Date of Pronouncement : 17.12.2025

आदेश /O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order dated 27.01.2025 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi for the assessment year 2018-19.

2. We find that this appeal is filed with a delay of 45 days. The assessee filed an affidavit for condonation of delay stating the reasons. Upon hearing both the parties and on examination of the said affidavit, in

the interest of justice, we condone the delay and admit the appeal for adjudication.

3. Ground No. 3 is raised challenging the action of the Id. CIT(A) in failing to appreciate the notice under section 148 of the Income Tax Act, 1961 ["Act" in short], was issued by the JAO instead of FAO.

4. We note that the Assessing Officer reopened the assessment to assess foreign remittance made and consequently, notice under section 148 of the Act dated 30.03.2022 and there was no response from the assessee. In response to the notice under section 148(A)(b) of the Act, the assessee has not filed any reply, since the assessee made foreign remittance of ₹.11,05,70,230/- and no return of income filed, the Assessing Officer passed the order under section 148A(d) of the Act dated 26.03.2022. The Assessing Officer issued notice under section 142(1) of the Act dated 06.10.2022 and in response to which, the submissions filed by the assessee are extracted at page 2 of the assessment order. Thereafter, the Assessing Officer issued show cause notice proposing to treat the foreign remittance as unexplained income of the assessee, against which, the reply furnished by the assessee are extracted at page 3 of the assessment order. The reply of the assessee that as per RBI norms, the parent company gives unsecured loans to its

foreign subsidiaries and during the year its bank account turned NPA, it had remitted foreign loans through the assessee which is 100% subsidiary, but, however, the Assessing Officer did not accept the above submissions of the assessee for the reason that when the parent company and one of its subsidiaries had become NPA then how the other subsidiary i.e., the assessee company is surviving and had capacity to give loans to others in the form of foreign remittance and that too after receiving loans from others, as the assessee is having no business in the year under consideration. Moreover, the Assessing Officer observed that the creditworthiness or capacity of the lenders i.e., SVL Limited and Mr. R. Thiagarajan are not proved and accordingly, issued notice dated 08.03.2023 show causing the assessee as to why an amount of ₹.19,51,29,146/- should not be added to its total income under section 68 of the Act. Further, the genuineness of the transaction made in the form of foreign remittance of ₹.11,05,70,230/- remains unexplained and show-caused as to why the said amount should not be added to its total income on protective basis under section 69C of the Act. The Assessing Officer also proposed for disallowance of claim of expenditure to the tune of ₹.5,98,000/-. Since there was no response from the assessee, the Assessing Officer completed the assessment under section 147 r.w.s 144 r.w.s.144B of the Act dated 22.03.2023 assessing total income of the

assessee at ₹.30,62,97,376/-, inter alia, making various additions as proposed in the show cause notice. The Id. CIT(A), by accepting the submissions of the assessee, allowed the claim of expenditure as well as deleted the addition of ₹.1,05,70,230/- and confirmed the addition of ₹.19,51,29,146/- made under section 68 of the Act.

5. The Id. AR Ms. S. Sanchita, Advocate drew our attention to page 1, 2 & 5 of the paper book and submits that the notice under section 148A(b) of the Act dated 14.03.2022, order under section 148A(d) of the Act dated 26.03.2022 and notice under section 148 of the Act respectively were issued by the jurisdictional Assessing Officer. She also drew our attention to the assessment order dated 22.03.2023 passed under section 147 r.w.s. 144 r.w.s. 144B of the Act by the Faceless Assessing Officer. The Id. AR vehemently argued that the assessment order passed by the Faceless mechanism [Assessing Officer] is bad in law in terms of the decision of the Hon'ble High Court of Madras in the case of TVS Credit Services Ltd. v. DCIT in W.P. No. 22402 of 2024 & WMP No. 13336 of 2023 dated 24.06.2025, which has been duly followed by the Tribunal in its order in ITA No. 719/Chny/2025 dated 22.09.2025 in the case of Thangamuthu Balakrishnan v. ITO & ITA No. 1357/Chny/2025 dated 28.07.2025 in the case of Kumaresan Bhagavathiperumal Pillai v. ITO

and prayed to quash the assessment order passed by the NFAC without issuing notice under section 148A(d) of the Act.

6. The Id. DR Ms. E. Pavuna Sundari, CIT supported the order passed by the Assessing Officer.

7. We have heard both the parties and perused the material available on record. In this case, we note that the assessment order under section 147 r.w.s. 144 r.w.s. 144B of the Act was passed by the assessment unit of NFAC. Further, we note that the notice under section 148 of the Act was issued by the Jurisdictional Assessing Officer and also passed order under section 148A(d) of the Act. On perusal of the decision of the Hon'ble High Court of Madras in the case of TVS Credit Services Ltd. v. DCIT (supra), we note that the Hon'ble High Court was pleased to hold that the assessment made by the assessment unit of NFAC is not valid if the order and notice under section 148A(d)/148 of the Act issued by the Jurisdictional Assessing Officer, but, however, liberty was given to the Revenue to re-ignite the notice in case the Hon'ble Supreme Court interferes with the order of the Hon'ble High Court of Bombay in the case of Hexaware Technologies Ltd. V. ACIT 464 ITR 430 (Bombay). Accordingly, we hold that the assessment order dated 22.03.2023 passed by the assessment unit of NFAC is bad in law and it is quashed.

Accordingly, the ground No. 3 raised by the assessee is allowed and remaining ground Nos. 1, 2, 4, 5 & 6 become infructuous.

8. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 17th December, 2025 at Chennai.

Sd/-
(S. PADMAVATHY)
ACCOUNTANT MEMBER

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Chennai, Dated, 17.12.2025

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant,
2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.