

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH
MUMBAI**

**BEFORE: SHRI VIKAS AWASTHY, JUDICIAL MEMBER
&
SHRI M.BALAGANESH, ACCOUNTANT MEMBER**

**ITA Nos.1695/Mum/2022 to 1697/Mum/2022
(Assessment Years :2009-10 to 2011-12)**

Assistant Commissioner of Income Tax Circle-22(1) Room No.332, Piramal Chambers, Parel Mumbai – 400 012	Vs.	Shri Ajit Anantrao Pawar Ground Floor Datta Bhavan Gokhale Road, Vijay, Manjrekar Lane North Dadar Mumbai – 400 028
PAN/GIR No.AFWPP6385J		
(Appellant)	..	(Respondent)

Assessee by	Shri Shashi Bekal
Revenue by	Shri Manoj Sinha
Date of Hearing	30/01/2023
Date of Pronouncement	30/01/2023

आदेश / O R D E R

PER M. BALAGANESH (A.M.):

These appeals in ITA Nos.1695/Mum/2022 to 1697/Mum/2022 for A.Yrs.2009-10 to 2011-12 arise out of the order by the Id. Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre(NFAC) in appeal Nos.CIT(A), Mumbai-33/10659/2016-17, CIT(A), Mumbai-33/10893/2019-20 & CIT(A), Mumbai-33/10667/2016-17 respectively dated 29/04/2022 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter

referred to as Act) dated 29/02/2016 & 27/12/2016 respectively by the Id. Assistant Commissioner of Income Tax-21(1), Mumbai (hereinafter referred to as Id. AO).

Identical issues are involved in all these appeals and hence, they are taken up together and disposed of by this common order for the sake of convenience.

2. We have heard rival submissions and perused the materials available on record. At the outset, we find that the Id. AR for the assessee vehemently pleaded that the appeals preferred by the Revenue for all the three years are to be dismissed as 'defective' in view of the following facts:-

- (a) There were two independent searches conducted u/s.132 of the Act of RNS Infrastructure Ltd. and M/s. Bhangdiya Group.
- (b) In both these searches, the assessee herein is involved and proceedings were initiated u/s.153C of the Act on the assessee.
- (c) Since there were two separate searches conducted in two different groups, two separate assessments were framed u/s.153C of the Act for A.Yrs. 2009-10, 2010-11 and 2011-12 on the assessee. Accordingly, six assessments u/s 153C of the Act were framed by the Id. AO i.e. two assessment orders for each year i.e. A.Y.2009-10,2010-11 and 2011-12.
- (d) The assessee filed six appeals before the Id. CIT(A).
- (e) The Id. CIT(A) allowed all the six appeals of the assessee.
- (f) Aggrieved by that order, the Revenue instead of preferring six independent appeals before this Tribunal, had preferred only three appeals before the Tribunal.

2.1. In view of the above, the Id. AR vehemently argued that the appeals preferred by the department are to be dismissed as defective.

3. Per Contra, the Id. DR filed a written note confirming the above facts to justify the filing of three appeals by the Revenue in view of the fact that for each assessment year, the Revenue had enclosed two section 153C assessment orders framed by the Id. AO along with the appeal memo filed before this tribunal. Hence, it was contented by the Id. DR that all the additions framed in two independent section 153C orders could be adjudicated in one appellate order itself.

4. We have heard rival submissions and perused the materials available on record. The facts stated hereinabove by the Id. AR are not in dispute with regard to framing of two independent section 153C assessments for each assessment year. It is not in dispute that six independent appeals were filed by the assessee before the Id CIT(A) and accordingly, numbered thereon independently in the records of the Id. CIT(A) by the Income Tax department. Even though consolidated order is passed by the Id. CIT(A) for all the six appeals, we find that the Id. CIT(A) had duly listed out the list of appeals preferred by the assessee in pages 2 & 3 of his appellate order. Hence, if there is any grievance against those independent orders for the Revenue, independent appeals should be preferred by the Revenue before this Tribunal. Hence, we are in agreement with the arguments of the Id. AR that appeals preferred by the Revenue are defective and accordingly, liable to be dismissed. Accordingly, the appeals preferred by the Revenue are hereby dismissed as 'defective' with a liberty being granted to the Revenue to prefer six independent appeals for A.Yrs. 2009-10, 2010-11 and 2011-12 (i.e. two appeals for each assessment year), if they so desire, with a delay

condonation petition. When this was put to Id. AR, he also fairly agreed for the aforesaid decision of the Bench granting liberty to the revenue to file fresh appeals with delay condonation petition.

4. In the result, all the appeals of the Revenue are dismissed.

Order pronounced in open Court on 30/01/2023.

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Mumbai; Dated 30/01/2023
KARUNA, *sr.ps*

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai