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(2026) 06 ITAT CK 0806

In the Income Tax Appellate Tribunal, Delhi H Bench

Case No : ITA No.983/DEL/2026

Carlsberg India Private Limited APPELLANT

Vs

Assessment Unit, National Faceless Assessment Centre, New Delhi RESPONDENT

Date of Decision : 24-06-2026

Acts Referred:
Income Tax Act, 1961 — Section 143(1)
Income Tax Act, 1961 — Section 143(2)
Income Tax Act, 1961 — Section 143(3)
Income Tax Act, 1961 — Section 144B
Income Tax Act, 1961 — Section 246

Citation : (2026) 06 ITAT CK 0806

Hon'ble Judges : Sudhir Kumar, JM;Manish Agarwal, AM

Bench : Division Bench

Advocate : Sh. S. K. Aggarwal, CA for the Appellant; Sh. Bhopal Singh, CIT-DR for the Respondent

Final Decision : Allowed

Judgement

PER SUDHIR KUMAR, JUDICIAL MEMBER:

This appeal by the assessee is directed against the order of the National Faceless Appeal Centre (NFAC) Delhi [hereinafter referred to as "(Ld. NFAC)"] vide order dated 19.11.2025 arising out of the order of the Assessing Officer vide order dated 22.12.2023 u/s 143(3) of the Income Tax Act 1961 (in short "the Act" pertaining to A.Y. 2021-22.

2. The assessee has raised following grounds of appeal:

1. That on facts and in the circumstances of the case, the learned CIT(A) erred in dismissing the appeal exparte (without issuing any show cause notice or providing opportunity of being heard) on the premise that the appeal ought to have been filed against the intimation issued under section 143(1) OF THE Act, without appreciating that the adjustment made in the said intimation stood

merged with and subsumed in the subsequent regular assessment completed under section 143(3) read with section 144B of the Act.

2. That on facts and in the circumstances of the case, the learned CIT(A) erred in upholding the action of the ld. AO in erroneously adopting the total income of the Appellant at INR 1,27,10,132/- on the basis of the intimation issued under section 143(1) of the Act, without appreciating that:

2.1 Ld. AO had made enquiry concerning the impugned additions and the detailed submissions were filed by the Appellant on 14-06-2023 and 15-11-2023 wherein it was specifically demonstrated that the additions made in the intimation issued under section 143(1) of the Act was erroneous since it was already offered to tax in the computation of income, and the addition in 143(1) intimation led to a double taxation of income however Ld. AO did not consider the said submissions.

2.2 The Ld. AO had also violated the principles of natural justice by not issuing any show cause notice to the Appellant as to why the proposed adjustments amounting to INR 1,27,10,132/- should not be made.

The appellant craves leave to alter amend or withdraw all or any of the grounds of Appeal herein or add further Grounds as necessary and submit such statements, documents and papers as may be considered essential before or during the appeal hearing, The Appellant prays for appropriate relief based on the said Grounds of Appeal and the facts and Circumstances of the case.

3. Brief facts of the case are that the assessee company has filed it return of income under section 139(1) of the Act on 16-02-2022 declaring total income as Nil. The income was then computed under section 143(1) of the Act determining a total income of Rs.1,27,10,130/- after making the adjustment. The case was selected for scrutiny under section 143(3) of the Act on the issue of (i) Large value of international transactions in nature of Technical Service Fees and (ii) International transaction(s) in respect of intangible property (T.P. risk). Accordingly, notice under section 143(2) of the Act was issued on 28-06-2022 by Ld. NFAC New Delhi and served electronically upon the assessee. Notices under section 142(1) /143(2) of the Act were issued to the assessee. The Assessing Officer accepted the intimation order under section 143(1) of the Act.

4. Aggrieved by the order of the AO, the assessee preferred the appeal before Ld. CIT(A), who vide order dated 19-11-2025 dismissed the appeal. Ld. NFAC observed in his order as under:

> 5.6 As such it may be appreciated that such order under section 143(1) is applicable before the Joint Commissioner (Appeals). As such, it is found that the assessee has not availed the alternative remedy for addressing its agreements with respect to the prima fasci adjustment under section 143(1) under section 246 and nothing has been brought on record that such order is contested. Therefore, it is deemed that the assessee has accepted the prime fasci adjustment under section143(1).
>
> 5.7 Therefore, considering the facts and circumstances of the case, submission of the

> assessee and material available on record, and considering that the assessee has not availed alternative remedy to contest order under section 143(1) under section 246 before the Jt. Commissioner (A), grounds of appeal contested by the assessee at serial No. 1 to 4 are dismissed.

5. Being aggrieved the order of the Ld. CIT(A) the assessee is in appeal before the tribunal.

6. We have heard both the parties and perused the material available on record. The Ld. AR of the assessee submitted that the case of assessee was selected for scrutiny u/s 143(3) of the Act. The Assessing Officer in the assessment order started his computation of income from the income determined by the learned CPC under section 143(1) of the Act. By this process, the intimation under section 143(1) of the Act stood merged with the assessment order framed by the Assessing Officer under section 143(3) r.w.s. 144B of the Act. The appeal was dismissed without issuing the notice to the assessee. Ld. DR submitted that the notices were issued too the assessee who also filed his submissions before the appellate authority.

7. In the present case the assessee has filed the appeal against the assessment order which was passed after scrutiny of the case. The intimation order under section 143(1) of the Act stood merged with the assessment order framed by the Assessing Officer under section 143(3) r.w.s. 144B of the Act, therefore the appeal filed by the assessee should have been disposed of on the merit by the appellate authority. Since in the instant case the Ld. NFAC has dismissed the appeal without being heard to the assessee, therefore, considering the totality of the facts and circumstances of the case and in the interest of justice, we deem it proper to restore the issue to the file of the Ld. NFAC with a direction to grant one final opportunity to the assessee to substantiate its claim and decide the issue as per fact and law. The assessee is also directed to appear before the NFAC and co-operate in the proceedings. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open court on 24.06.2026.