

**IN THE INCOME TAX APPELLATE TRIBUNAL (VIRTUAL COURT)
"SMC" BENCH, MUMBAI**

BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER

ITA NO. 1410/MUM/2020 (A.Y: 2015-16)

Sunita Rakesh Jain 1701, Brighton Towers, Hari Om Nagar Eastern Express Highway Mumbai -400081 PAN: AGQPJ7159M	v.	Income Tax Officer – 29(3)(4) Kautilya Bhavan Bandra Kurla Complex Bandra(E), Mumbai - 400051
(Appellant)		(Respondent)

Assessee by	:	Sanjiv Bromhe
Department by	:	Ms. Smita Varma
Date of Hearing	:	14.09.2021
Date of Pronouncement	:	14.09.2021

ORDER

PER C.N. PRASAD (JM)

1. This appeal is filed by the assessee against order of Learned Commissioner of Income Tax (Appeals)–40, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 13.12.2019 for the A.Y. 2015-16.

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

"addition of Rs. 4.16,073/-

1. *The CIT (A) failed to serve a proper notice to the Appellant and passed the ex-parte order.*

2. *The CIT (A) failed to appreciate that the AO did not carry out any independent enquiry himself for the reconciliation of sales amount therefore the addition sustained by CIT (A) is unjustified and is Liable to be deleted.*

3. *The CIT (A) failed to appreciate that the AO had not provided to the Appellant any material on which he placed reliance in making the impugned addition as also opportunity of cross examination thereby violating the principles of natural justice. Therefore the addition is liable to be deleted.*

4. *The CIT (A) erred in confirming the addition of increase in sales of Rs.4,16,073/- without verification of the facts.*

Interest levied u/s 234A, 234B & 234C of the act

5. *The CIT (A) erred in confirming the levy of interest under sections 234A, 234B & 234C of the act.*

Initiation of Penalty Proceedings

6. *The CIT (A) erred in confirming the penalty proceedings initiated by AO u/s 271(l)(c) of the act.*

The appellant craves leave to add, amend, alter or delete any of the above grounds of appeal."

3. Ld. Counsel for the assessee submits that Ld.CIT(A) passed exparte order without providing adequate opportunity of being heard to the assessee, therefore, considering additions/disallowance made by the Assessing Officer Ld. Counsel for the assessee requested that the matter may be restored to the file of the Ld.CIT(A).

4. Ld. DR has no serious objection in remitting the matter back to the file of the Ld.CIT(A).

5. Heard both sides, perused the orders of the authorities below. On a perusal of the Ld.CIT(A) order, we find that the Ld.CIT(A) provided only one notice and the assessee could not appear. Considering the totality of facts and submissions of the Ld.Counsel for the assessee and keeping in view the additions/disallowance made by the Assessing Officer, I am of the opinion that assessee should be given one more opportunity of being heard. Thus, this appeal is restored to the file of the Ld.CIT(A) for denovo adjudication in accordance with law. Assessee is directed to appear before Ld.CIT(A) and shall cooperate with the appellate proceedings without taking unnecessary adjournments. Thus, this appeal is restored to the file of the Ld.CIT(A) accordingly.

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

Order pronounced in the virtual court on 14.09.2021.

Sd/
(C.N. PRASAD)
JUDICIAL MEMBER
Mumbai / Dated 14/09/2021
Giridhar, Sr.PS

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, Mum