

IN THE INCOME TAX APPELLATE TRIBUNAL  
“F” BENCH, MUMBAI

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

ITA No.1218/Mum/2020

(A.Y: 2010-11)

Jitendra B Salecha 1501, Orient Height, Rajaram Mohanrai Road, Grant Road, East, Mumbai – 400 004.	Vs.	ITO 13(3)(3) Aayakar Bhavan, Room No. 227, Maharshi Karve Road, Mumbai – 400020.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAIPS4311A		
Appellant	..	Respondent

Appellant by :	None
Respondent by :	Smt. Gaikwad, DR

Date of Hearing	07.09.2021
Date of Pronouncement	08.09.2021

आदेश / O R D E R

**PER PAVAN KUMAR GADALE JM:**

The assessee has filed the appeal against the order of the Commissioner of Income Tax (Appeals)-21, Mumbai, passed u/s 271(1)(c) and 250 of the Income Tax Act, 1961. The assessee has raised the following grounds;

- "1. The Ld. CIT (A) erred in law and on facts in upholding the order of the AO levying penalty of Rs. 3,33,720/- u/s 271(1)(c).*
- 2. The Ld. CIT(A) failed erred in law and facts in not considering the submissions made by the appellant and deciding the appeal ex-parte.*

3. *The appellant contends that he has not committed any default in terms of sec. 271(1)(c) and hence the penalty of Rs. 3,33,720/- has been unjustly levied having regard to the facts of the case and the law prays that the same be deleted in toto.*

4. *The appellant craves permission to add, alter, amend or vary to or any of the above grounds of appeal on or before the hearing of the appeal.*

2. At the time of hearing, none appeared on behalf of the assessee. The Ld.DR supported the order of the CIT(A).

3. We heard the Ld.DR submissions and perused the material on record. Prima-facie the CIT(A) has passed the ex-parte order considering the fact that there is no appearance nor any written submissions are filed by the assessee in spite of providing adequate opportunity of hearing. Therefore, the CIT(A) was of the opinion that the assessee is not interested in prosecuting the appeal and dismissed the appeal ex-parte confirming the action of the assessing officer. We on perusal of the CIT(A) found that the Ld.CIT(A) has issued the notice of hearing, but there was no response and thus the Ld.CIT(A) came to a conclusion that the assessee is not inclined to prosecute the appeal.

4. We find that the assessee has raised grounds of appeal challenging the levy of penalty by the A.O. and there could be various reasons for non appearance which

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cannot be overruled. We considering the principles of natural justice shall provide one more opportunity of hearing to the assessee to substantiate the case along with evidences and information. Accordingly, we set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of appeal and allow the grounds of appeal of the assessee statistical purposes.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 08.09.2021.

Sd/-  
(MANOJ KUMAR AGGARWAL)  
**ACCOUNTANT MEMBER**

Sd/-  
(PAVAN KUMAR GADALE)  
**JUDICIAL MEMBER**

Mumbai, Dated 08.09.2021

KRK, PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)

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4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

( Asst. Registrar)  
ITAT, Mumbai