

आयकर अपीलीय अधिकरण  
मुंबई पीठ "ए"  
श्री विकास अवस्थी, न्यायिक सदस्य एवं  
श्री एस. रिफौर रहमान, लेखा सदस्य के समक्ष  
IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH " A", MUMBAI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI S.RIFAUR RAHMAN , ACCOUNTANT MEMBER  
आअसं.45/मुं/2022 (नि.व. 2013-14)  
ITA NO.45/MUM/2022(A.Y.2013-14)

Arti Shailen Topiwala,  
3A, Chandravilla Apartment,  
Gulmohar X Road No.5,  
Vile Parle(W), Mumbai 400 049.  
PAN: AACPT-3505-D

..... अपीलार्थी /Appellant

बनाम Vs.

The ITO-25(2)(1),  
Mumbai – 400 020.

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Jitendra Singh

प्रतिवादी द्वारा/Respondent by : Shri Mehul Jain

सुनवाई की तिथि/ Date of hearing : 18/05/2022

घोषणा की तिथि/ Date of pronouncement : 18/05/2022

आदेश/ ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against an ex-parte order of the Commissioner of Income Tax(Appeals), National Faceless Appeal Centre, Delhi [in short 'the CIT(A)'] dated 12/11/2021, for the assessment year 2013-14.

2. Shri Jitendra Singh appearing on behalf of the assessee submitted that the CIT(A) has dismissed the appeal of assessee in-limine for non-prosecution. The Id.Counsel for the assessee submitted that the assessee has prima-facie

good case in her favour. The assessee would be able to show merits in the appeal if an opportunity is granted to appear before the CIT(A).

3. Per contra, Shri Mehul Jain representing the Department vehemently defended the impugned order . The Id.Departmental Representative submitted that notice of hearing were issued to the assessee on five occasions, but the assessee failed to respond to any of the notices. No submissions were made despite service of notices. The Id.Departmental Representative further pointed that even before the Assessing Officer assessee failed to appear, hence, the Assessing Officer had to pass assessment order under section 144 of the Income Tax Act, 1961 [in short 'the Act']. The Id.Departmental Representative prayed for dismissing the appeal of assessee.

4. Both sides heard, orders of authorities below examined. We find that the assessee has been non-cooperative before the authorities below. During the assessment proceedings the assessee failed to appear before the Assessing Officer. Consequently, the Assessing Officer was constrained to frame assessment under section 144 of the Act . Even during the First Appellate proceedings, the assessee failed to respond to the notices repeatedly sent by the CIT(A). No explanation whatsoever has been furnished before us for non-appearance before the authorities below. In the interest of justice, opportunity is granted to the assessee to make submissions before the CIT(A). The CIT(A) shall decide the appeal denovo after affording reasonable opportunity of hearing to the assessee, in accordance with law.

5. The assessee is directed to make submissions before the CIT(A) after service of notice of hearing without fail. In case, the assessee fails to respond to the notice issued by CIT(A), the CIT(A) shall be at liberty to take an adverse view.

6. In the result, appeal by assessee is allowed for statistical purpose, in the terms aforesaid.

Order pronounced in the open court on Wednesday the 18<sup>th</sup> day of May, 2022.

Sd/-

( S.RIFAUH RAHMAN )

लेखा सदस्य/ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/Dated 18/05/2022

Vm, Sr. PS(O/S)

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

**प्रतिलिपि अग्रेषितCopy of the Order forwarded to :**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
6. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**