

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI B BENCH, MUMBAI**

**[Coram: Pramod Kumar (Vice President),
and Aby T Varkey (Judicial Member)]**

ITA No.: 1122/Mum/2020
Assessment year: 2014-15

M/s. Nashik Township Developers Ltd.,Appellant
*Hincon House, LBS Marg, Vikhroli (W),
Mumbai 400083 [PAN: AACCN4509N]*

Vs.

Income Tax Officer-15(2)(2)
MumbaiRespondent

Appearances by:

Hetal Vora for the appellant
Aditya Rai for the respondent

Date of concluding the hearing : 22/06/2022
Date of pronouncing the order : 27/06/2022

O R D E R

Per Pramod Kumar VP

1. By way of this appeal, the assessee appellant has challenged correctness of the *ex-parte* order dated 26th November 2019 passed by the learned CIT(A) in the matter of assessment under section 143(3) of the Income Tax Act, 1961, for the assessment year 2014-15.

2. Grievances raised by the assessee appellant, as set out in the memorandum of appeal, are as follows:

1) That on the facts and in the circumstances of the appellant's case and in law, learned CIT(A) has erred in determining the total income of the appellant for the AY 2014-15, at Rs. 1,76,18,765/-, as against loss Rs.3,50,509/-, computed by the appellant for the current Assessment Year.

2) That on the facts and in the circumstances of the appellant's case and in law, learned CIT(A) has erred in disallowing the expenditure of Rs1,79,69,274/- without verifying the genuineness of the expenditure claimed by the appellant.

3) *That on the facts and in the circumstances of the appellant's case and in law, learned CIT(A) has erred in confirming the service of notice to the appellant.*

4) *That on the facts and in the circumstances of the appellant's case and in law, learned CIT(A) has sent the notices online without confirming that the appellant has opted for the online services of notice. Also this being the first year during which notices were being sent online to appellants.*

5) *That on the facts and in the circumstances of the appellant's case and in law, learned CIT(A) has overlooked the provisions of Section 250(6) of the Act, as the order passed by him is non speaking and without affording the appellant, a fair, proper and meaningful opportunity of being heard, violating the principles of natural justice and thus such an order of assessment is vitiated both on fact and in law.*

6) *That the impugned order being contrary to law, evidence and facts of the case may kindly be set aside, amended or modified in the light of the grounds of appeal enumerated above.*

7) *That each of the grounds of appeal enumerated above is without prejudice to and independent of one another.*

8) *That the appellant craves leave to reserve to himself the right to add to, alter or amend any of the aforesaid grounds of appeal before or at the time of hearing and to produce such further evidence, documents and papers as may be necessary.*

3. When this appeal came up for hearing it was noticed that the impugned order passed by the learned CIT(A) is passed ex-parte qua the assessee on the ground that despite the assessee having being given sufficient opportunities, there was non-compliance of the notices of hearing issued by the learned CIT(A). When learned counsel for the assessee was confronted with this observation in the impugned order it is submitted that non-compliance was for bonafide reasons beyond his control and that if given another opportunity of hearing before the learned CIT(A), he will ensure that there is scrupulous compliance to the notices issued by the learned CIT(A). It was thus submitted that the matter may be restored to the file of the learned CIT(A) for fresh adjudication on merits. Learned Departmental Representative did not seriously oppose the prayers so made by the learned counsel for the assessee even though it was pointed out that the assessee's past conduct does not inspire much faith in his present assurances.

4. Having heard the rival contentions and having perused the material on record, we are of the considered view that in the interest of justice and equity one more opportunity of hearing before the learned CIT(A) should be given to the assessee. We therefore, we deem it fit and proper to remit the matter to the file of the learned CIT(A) for adjudication de-novo by way of the speaking order, in accordance with the law, and of course after giving yet another opportunity of hearing to the assessee. We also deem it appropriate to caution the assessee to ensure that there is full cooperation on the assessee's part to ensure expeditious disposal of the remand proceedings. With these directions the matter stands restored to the file of the learned CIT(A).

5. As the matter is being remitted for fresh adjudication by the learned CIT(A), we see no need to deal with the grievances raised on merits. All these grievances, given our directions for remand to the learned CIT(A), are academic as of now.

6. In the result the appeal is allowed for statistical purposes. Pronounced in the open court today on the 27th day of June, 2022.

Sd/-
Aby T Varkey
(Judicial Member)

Sd/-
Pramod Kumar
(Vice President)

Mumbai, dated the 27th day of June, 2022

Copies to:

(1)	<i>The appellant</i>	(2)	<i>The respondent</i>
(3)	<i>CIT</i>	(4)	<i>CIT(A)</i>
(5)	<i>DR</i>	(6)	<i>Guard File</i>

By order

Assistant Registrar/ Sr PS
Income Tax Appellate Tribunal
Mumbai benches, Mumbai