

IN THE INCOME TAX APPELLATE TRIBUNAL "H" BENCH, MUMBAI
BEFORE SHRI ABY T. VARKEY, JM AND SHRI OM PRAKASH KANT, AM

आयकर अपील सं/ I.T.A. No.1668/Mum/2020
(निर्धारण वर्ष / Assessment Years: 2013-14)

Keshav Navin Tayal 396, Kamath Industrial Estate, Veer Savarkar Marg, Prabhadevi, Mumbai- 400025.	बनाम/ Vs.	ITO-21(2)(1) 110, Piramal Chambers, 1 st Floor, Lalbaug, Lower Parel, Mumbai-400012.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AHJPT5156G		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
Assessee by:	None	
Revenue by:	Shri Rajesh Ojha, (Sr. AR)	

सुनवाई की तारीख / Date of Hearing: 14/06/2022
घोषणा की तारीख /Date of Pronouncement: 24/06/2022

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-33, Mumbai dated 22.01.2020 for the assessment year 2013-14.

2. At the very outset, we note that none-appeared for the assessee despite notices. The matter has been listed for eight (8) times and neither anyone appeared for the assessee nor filed any adjournment application. However, we note from the ground no. 4 preferred by the assessee that his main grievance against the action of Ld. CIT(A) is for not giving him sufficient and reasonable opportunity to be heard before passing the impugned order. We note that the Ld. CIT(A) has passed the order ex-parte without going into the merits of the case. We note from perusal of the impugned order that the Ld. CIT(A) had fixed on two (2) occasions the appeals of assessee for hearing i.e. on



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24.12.2019 and on 14.01.2020; and since there was no compliance on the part of the assessee, he was pleased to dismiss the appeal of the assessee. We note that the Ld. CIT(A) has merely noted that since there were neither any written submissions filed by assessee nor any evidences explaining the source of cash deposits in the bank accounts or source of payments made to Bajaj Alliance or as membership fees filed along with Form No.35 and in respect of other additions made by AO, he concluded that there was no material or evidence to interfere with the findings given by the AO. We do not countenance such an action of the Ld. CIT(A). We note from the dates fixed for hearing before the Ld. CIT(A) i.e. on 24.12.2019 and on 14.01.2020, due to Covid-19 there were “Lockdown” orders issued by the State Government and considering the extra ordinary situation of Pandemic the Ld. CIT(A) ought to have given more opportunity to the assessee, and anyway passed a speaking order on the issues/grounds raised by assessee while disposing of the appeal.

3. In the light of the aforesaid discussion, we are inclined to set aside the impugned order of the Ld. CIT(A) and restore the appeal back to the file by the Ld. CIT(A) and direct him to adjudicate the grounds of appeal raised by the assessee on merits after giving proper opportunity to the assessee. The assessee is also directed to appear diligently before the Ld. CIT(A) or to file the written submissions as well documentary evidences in respect of the grounds of appeal before the First Appellate Authority against the addition made by AO if advised to do so. And the Ld. CIT(A) to decide the appeal in accordance to law.



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

Order pronounced in the open court on this 24/06/2022.

Sd/-

(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Sd/-

(ABY T. VARKEY)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 24/06/2022.
Vijay Pal Singh, (Sr. PS)

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai