

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'SMC' BENCH
MUMBAI**

BEFORE: SHRI M.BALAGANESH, ACCOUNTANT MEMBER

**ITA No.2299/Mum/2022
(Assessment Year :2013-14)**

M/s.Digihome Solutions Pvt. Ltd., 366, Veer Savarkar Marg Dadar East Mumbai – 400 028	Vs.	Dy.Comm.of Income Tax Ward 6(2)(3), Mumbai Aaykar Bhavan Mumbai – 400 020
PAN/GIR No.AACCD3082A		
(Appellant)	..	(Respondent)

Assessee by	Shri Haridas Bhat
Revenue by	Shri Pratap Sharma
Date of Hearing	27/10/2022
Date of Pronouncement	27/10/2022

आदेश / ORDER

PER M. BALAGANESH (A.M):

This appeal in ITA No.2299/Mum/2022 for A.Y.2013-14 arises out of the order by the Id. Commissioner of Income Tax (Appeals) National Faceless Appeal Centre (NFAC) in appeal No.CIT(A)-12,Mumbai/10083/2019-20 dated 29/07/2022 (Id. CIT(A) in short) against the order of assessment passed u/s.147 r.w.s. 144 of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 10/12/2018 by the Id. Income Tax Officer-6(2)(3), Mumbai (hereinafter referred to as Id. AO).

2. The assessee has raised the following grounds of appeal:-

“1. On the facts and circumstances of the case, and in Law, the CIT Appeals, erred in confirming the addition of Rs. 49,99,749/- of the Act which is bad at law.

2. On the facts and circumstances of the case and in law the AO failed to appreciate that

a) The assessee was not given proper opportunity of being heard and assessment was done ex-parte.

b) The reasonable cause for delay in filing was properly explained in the Affidavit filed, which is ignored by the CIT(A)

c) Dismissal of the appeal without going through the merits of case is bad at law.

d) The additions are based on the gross income as per ITS/ 26AS and ignoring the fact that there will be some expenditure to earn the income.

3. The Appellant therefore prays that the assessment completed u/s 144 r.w.s 147 of the Act may please be send back to the concerned AO to give proper opportunity to the Assessee.

The appellant craves leave to add to, alter, and/ or amend the above grounds of appeal.”

3. I have heard rival submissions and perused the materials available on record. At the outset, I find that there was a delay in filing of appeal before the Id. CIT(A) by five months which fact is stated in para 4.1 of the order of the Id. CIT(A). The assessee had given proper reasons for the delay in filing of appeal before the Id. CIT(A) which is reproduced in para 4.2 of order of the Id. CIT(A). On going through the same, I am convinced that the assessee was prevented by reasonable cause from filing of appeal before the Id. CIT(A) in time. Hence, I direct the Id. CIT(A) to hereby condone the delay and admit the appeal of the assessee for adjudication. Since the appeal of the assessee has been dismissed by the Id. CIT(A) on the ground of delay by not giving any decision on merits, I hereby direct the Id. CIT(A) to condone the delay and adjudicate the

issues raised in the grounds of appeal on merits, in accordance with law. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in open Court on 27/10/2022

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 27/10/2022
KARUNA, *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,

(Sr. Private Secretary / Asstt. Registrar)
ITAT, Mumbai