

**IN THE INCOME TAX APPELLATE TRIBUNAL "H" BENCH, MUMBAI**

BEFORE SHRI PRASHANT MAHARISHI, AM  
AND  
SHRI PAVAN KUMAR GADALE, JM

**ITA No.2563/Mum/2022**

(Assessment Year 2014-15)

Kiran Kishoral Jain  
503, Rajendra Vihar,  
Gilder Lane,  
Mumbai-400 008

Vs.

Income Tax Officer  
Ward 20(2)(3)  
2<sup>nd</sup> Floor, 210  
Piramal Chambers, Parel,  
Mumbai-400 012

**(Appellant)**

**(Respondent)**

**PAN No. AACPJ5368C**

**Assessee by** : Shri Romil Kirtikumar Jain, CA  
**Revenue by** : Shri Tejinder Pal Singh Anand,  
DR

**Date of hearing:** 13.12.2022  
**Date of pronouncement :** 14.12.2022

**ORDER**

**PER PRASHANT MAHARISHI, AM:**

01. This appeal is filed by the assessee for A.Y. 2014-15 against the appellate order passed by the National Faceless Appeal Centre, New Delhi [ the Ld CIT (A) ] dated 27<sup>th</sup> May, 2022, where the appeal of the assessee filed against the assessment order dated 20<sup>th</sup> December, 2016 passed by the Income Tax Officer, 20(2)(3), Mumbai, (the learned Assessing Officer) under Section 144 of the Income-tax Act, 1961 (the Act) was dismissed on merits ex parte.



02. Brief fact of the case shows that assessee is an individual engaged in the business filed her return of income on 19<sup>th</sup> September, 2014 declaring total income of ₹5,32,670/-. Subsequently, the case of the assessee was picked up for scrutiny. Several notices were issued to the assessee but same remained uncomplied with. Assessee has not filed any information except Audit report and computation of total income. The information is available that assessee is a trader in gold bullion and silver. As assessee did not comply with notices, no information was furnished; Assessing Officer has passed an order under Section 144 of the Act on the basis of information available on record. The learned Assessing Officer found that there is large increase in sundry creditors which is not supported by evidence. The assessee has claimed interest expenditure without any supporting evidence and not commensurate with the business, accordingly, total income computed at ₹2,33,76,976/-.
03. The assessee preferred the appeal before the National Faceless Appeal Centre. Five notices were issued to the assessee; however, no response was received except seeking an adjournment on one occasion. The learned CIT (A) in absence of any further compliance by the assessee passed an ex-parte order dismissing the appeal of the assessee and confirming the additions/ disallowances made by the learned Assessing Officer. The assessee is aggrieved with that.



04. The learned Authorized Representative appearing before us submitted that the assessment orders as well as the appellate order were passed without hearing the assessee. It was stated that some of the notices were not received and further when one notice dated 23<sup>rd</sup> March, 2022 was received, the assessee requested for adjournment. It was submitted that the consultant was looking after the online portal and details of notices etc was not communicated to the assessee and therefore, the assessee is unaware about such notices, hence could not comply with them. Subsequently, the assessee has retained the Chartered Accountant, who filed the appeal and pursuing the same before the co-ordinate Bench.
05. The learned Departmental Representative vehemently submitted that assessee did not comply any of the notices before the learned Assessing Officer as well as before the learned CIT (A) and therefore, the orders of the lower authorities deserves to be confirmed.
06. In rejoinder learned Authorized Representative submitted that this has happened only in case of A.Y. 2014-15. In all other assessment proceedings, the assessee was duly represented and due to inadvertence the non compliance has happened for the impugned assessment year.
07. We have carefully considered the rival contentions and find that the orders of the learned Assessing Officer as well as the learned CIT (A) were passed ex-parte. It is also is also a fact that assessee did not comply with the notices before the learned Assessing Officer as well as before the



learned CIT (A). The learned Authorized Representative submitted that in the subsequent assessment years assessee has complied with all the notices and remained co-operative. It was claimed that the non compliance for this year is inadvertently on account of the old consultant. As the assessee has remained non compliant before lower authorities, it should also definitely result into same cost to such assessee. Further no one should be condemned unheard. Therefore, we direct the assessee to deposit of ₹5,000/- as a cost to The Prime Minister National Relief Fund within 30 days from the date of this order. As soon as the assessee deposits the above sum, she has to file all her submissions before the learned Commissioner of Income-tax (Appeals). Thereafter, the learned CIT (A) may decide the issue afresh in accordance with law. In the result, the appeal is restored back to the file of the learned CIT (A) subject to above conditions.

08. All other grounds of appeal remain unadjudicated.
09. In the result, appeal of the assessee is allowed for statistical purposes as directed above.

Order pronounced in the open court on 14.12.2022.

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

Sd/-  
(PRASHANT MAHARISHI)  
(ACCOUNTANT MEMBER)

Mumbai, Dated:14.12.2022

*Sudip Sarkar, Sr.PS*



Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Mumbai