

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

Before Shri B.R. Baskaran (AM) & Shri Kuldip Singh (JM)

I.T.A. No. 3076/Mum/2022 (A.Y. 2012-13)

Mr. Preet Sidharth 1901 T4, Jer Bai Wadia Road Bhoiwada, Parel Mumbai-400 012.  PAN : CAFPS8658K (Appellant)	Vs.	DCIT-23(1) Matrumandir Grant Road Mumbai-400 007.  (Respondent)
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Assessee by	Shri Paras Savla on behalf of Ms. Aarti Sathe & Ms. Aasawari Kadam
Department by	Shri A.N. Bhalekar
Date of Hearing	25.01.2023
Date of Pronouncement	30.01.2023

O R D E R

Per B.R.Baskaran (AM) :-

The assessee has filed this appeal challenging the order dated 18.10.2022 passed by the learned CIT(A), National Faceless Appeal Centre, Delhi and it relates to A.Y. 2012-13.

2. The assessee is aggrieved by the decision of the learned CIT(A) in confirming the order passed by the Assessing Officer ex-parte, without hearing the assessee.

3. Learned counsel appearing for the assessee submitted that the assessment for the year under consideration was reopened by the Assessing Officer by issuing notice under section 148 of the Act. However, the Assessing Officer sent the notices to the old address of the assessee and hence all the notices were returned back with the remark "left". The

Assessing Officer thereafter sent another notice to another address of the assessee, which was also returned back with the noting 'unclaimed'. Hence, the Assessing Officer completed the assessment to the best of his judgment by making addition of Rs. 25.68 lakhs as unexplained investment under section 69 of the Act.

4. The assessee challenged the assessment order by filing the appeal before the learned CIT(A) mentioning the present address of the assessee in Form No. 35. However, the notices of hearing were sent to the assessee to the very same old address and hence the assessee was not aware of the date of hearing given by Ld CIT(A). Hence, the assessee could not attend before the learned CIT(A) also, which lead to the dismissal of the appeal by the learned CIT(A).

5. Accordingly, the learned AR submitted that the assessee did not get proper opportunity to present its case before tax authorities. The Ld A.R submitted that the impugned addition is not warranted in the facts and circumstances of the case. He submitted that the assessee shall be in a position to explain all the issues before the AO, if an opportunity is given. Accordingly, the learned AR prayed that all the matters may be restored to the file of the Assessing Officer.

6. We heard learned DR and perused the record. Admittedly the assessee has changed the address and present address is mentioned both in Form No. 35 filed before the learned CIT(A) as well as in Form No. 36 filed before the Tribunal. We noticed that both the tax authorities have sent the notices to the old address and hence the assessee was not aware of the dates of hearing and could not make proper representation before them. It is the submission of the learned AR that the assessee would be in a position to explain various queries with regard to the additions made by the Assessing Officer, if an

opportunity is given. Since the assessee did not get proper opportunity before both the tax authorities, we are of the view that, in the interest of natural justice, assessee may be provided with an opportunity to present his case properly before the Assessing Officer. Accordingly, we set aside the order passed by the learned CIT(A) and restore all the issues to the file of the Assessing Officer for examining them afresh.

7. The assessee is also directed to update PAN data with current address so that notice could be issued by the tax authorities to the proper address. We also further direct the assessee to fully cooperate with the Assessing Officer for expeditious completion of the set aside proceedings.

8. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Pronounced in the open court on 30.1.2023

Sd/-  
(KULDIP SINGH)  
Judicial Member

Sd/-  
(B.R. BASAKARAN)  
Accountant Member

Mumbai; Dated : 30/01/2023

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.

//True Copy//

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai

PS