

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH, MUMBAI
BEFORE SHRI B R BASKARAN, AM AND MS. KAVITHA RAJAGOPAL, JM

ITA Nos.2734, 2733 & 2732/Mum/2022
(Assessment Years: 2010-11, 2013-14 & 2014-15)

Mukesh Desai 9, Madhu Kunj, Tejpal Road, Vile Parle (E), Mumbai-400 057	Vs.	ITO, Ward-25(3)(1) Mumbai
PAN/GIR No. AABPD 7788 D		
(Appellant)	:	(Respondent)
Assessee by	:	Shri Akash Kumar
Revenue by	:	Ms. Mahita Nair
Date of Hearing	:	21.03.2023
Date of Pronouncement	:	31.03.2023

ORDER

Per Kavitha Rajagopal, J M:

These appeals have been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Years ('A.Y.' for short) 2010-11, 2013-14 and 2014-15 respectively.

2. Since the facts are identical in all these appeals, we hereby proceed to pass a consolidated order in these appeals by taking ITA No. 2734/Mum/2012 as a lead case for the sake of convenience.

ITA No. 2734/Mum/2012

3. The brief facts of the case are that the assessee is an individual and had filed its return of income dated 14.10.2010, declaring total income at Rs.1,83,430/-. The assessee's case was selected for scrutiny and the assessment order dated 30.03.2013 was passed u/s. 143(3) of the Act where the Assessing Officer (A.O. for short) determined the

total income at Rs.2,31,88,490/-. Subsequent to the information received from the DDIT(Investigation) Unit-4(2), Mumbai that pursuant to a survey proceeding dated 14.01.2017 on M/s. Swastik Enterprises, a statement of the proprietor Shri Bijal A. Shah was recorded wherein he had admitted the cash transaction with certain parties that was made without any actual delivery of gold and was engaged in providing accommodation entries in which the assessee is said to be one of the beneficiary. The assessee's case was reopened and the impugned assessment order was passed dated 30.12.2017 u/s. 144 r.w.s. 147 of the Act by making various additions/disallowances towards transactions done with M/s. Swastik Corporation as unaccounted transaction and determined the total income at Rs.2,39,30,007/-.

4. The assessee was in appeal before the Id. CIT(A) challenging the impugned addition made by the A.O.

5. The Id. CIT(A) confirmed the said addition on the ground that the assessee has failed to furnish any explanation or documentary evidences in support of its claim.

6. The assessee is in appeal before us, challenging the order of the Id. CIT(A).

7. The learned Authorised Representative (Id. AR for short) for the assessee contended that the assessee was unable to furnish the relevant documentary evidences and had failed to appear before the Id. CIT(A). The Id. AR further prayed that the matter may be remanded back to the file of the Id. CIT(A) after providing the assessee one more opportunity to present his case.

8. The learned Departmental Representative (Id. DR for short) for the Revenue had nothing to controvert the same.

9. We have heard the rival submissions and perused the materials available on record. It is evident that the assessee has not appeared before the Id. CIT(A) in order to present his case neither has the assessee filed any corroborative evidences in support of his claim. In view of the principles of natural justice, we are of the considered opinion that the assessee may be given one last opportunity to present his case before the Id. CIT(A). Therefore, we remand all this issue back to the file of the Id. CIT(A) for *de novo* adjudication based on the merits of the case. The assessee is directed to co-operate with the proceedings without any further delay.

10. In the result, this appeal filed by the assessee for A.Y.2010-11 is allowed for statistical purposes.

ITA Nos.2732 & 2733/Mum/2022

11. As the facts are identical to the facts with that of ITA No. 2734/Mum/2022, hence the same applies *mutatis mutandis* to these appeals also i.e., for A.Ys. 2013-14 & 2014-15 and are remanded back to the file of the Id. CIT(A).

12. In the result, all the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on 31.03.2023

Sd/-

(B. R. Baskaran)
Accountant Member

Mumbai; Dated : 31.03.2023
Roshani, Sr. PS

Sd/-

(Kavitha Rajagopal)
Judicial Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai