

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

**ITA No.2582/Mum/2022  
(Assessment Year :2014-15)**

|  |     |   |
|--|-----|---|
| Deepak Dattaram Kadam<br>152/153, Shivaji Nagar<br>No.1, K.K. Ganguly Marg,<br>Juhu Tara Road<br>Juhu, Santacruz (W)<br>Mumbai – 400 049 | Vs. | A.C.I.T. Range 25(2)<br>Room No.C-10, 5 <sup>th</sup><br>Floor, Bandra Kurla<br>Complex<br>Pratyakshakar Bhavan<br>Bandra (E)<br>Mumbai – 400 051 |
| <b>PAN/GIR No.AJVPK5791Q</b>   |     |   |
| <b>(Appellant)</b>   | ..  | <b>(Respondent)</b>   |

|                              |                     |
|------------------------------|---------------------|
| Assessee by                  | Shri Shashank Mehta |
| Revenue by                   | Smt. Mahita Nair    |
| <b>Date of Hearing</b>       | <b>18/01/2023</b>   |
| <b>Date of Pronouncement</b> | <b>31/03/2023</b>   |
|                              |                     |

**आदेश / O R D E R**

**PER AMIT SHUKLA (J.M):**

The aforesaid appeal has been filed by the assessee, against order dated 24/08/2022, passed by NFAC Delhi, in relation to the penalty proceedings u/s.271D for the A.Y.2014-15.

2. The assessee is mainly aggrieved by levy of penalty of Rs.51,19,555/- u/s.271D in violation of Section 269SS of the Act

and passing of exparte order by the ld. CIT(A). Before us ld. Counsel submitted that only one notice was sent from the NFAC Centre but was sent on earlier e-mail ID and assessee has already updated the e-mail ID on the portal. Thus, assessee was not given any opportunity of hearing before the First Appellate authority. Accordingly, the exparte order passed by the ld. CIT (A) confirming the penalty should be set aside and matter should be restored back to the file of the ld. CIT (A) to decide afresh in accordance with law after considering the explanations as well as submissions of the assessee. The ld. DR also does not have any objection. The matter is remanded back to the file of the First Appellate authority.

3. After considering the aforesaid submissions and on perusal of the records, we find that the notice was sent from NFAC on 27/07/2022 fixing the appeal for hearing on 05/08/2022. Thereafter, the ld. CIT (A) has dismissed the assessee's appeal exparte. As informed by the ld. Counsel, the said notice was sent on a wrong e-mail ID, whereas the assessee has already updated the e-mail ID on ITD portal. Accordingly, the notice sent on earlier e-mail ID cannot be complied with. Under these circumstances, we are remanding back the appeal to the file of the First Appellate authority to decide the appeal afresh in accordance with law after giving due opportunity of hearing to the assessee to represent his case. Accordingly, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced on 31<sup>st</sup> March, 2023

**Sd/-**  
**(GAGAN GOYAL)**  
**ACCOUNTANT MEMBER**

Mumbai; Dated 31/03/2023  
KARUNA, *sr.ps*

**Sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

**Copy of the Order forwarded to :**

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

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**