

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH MUMBAI**

**BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

**ITA No.825/Mum/2023
(Assessment Year: 2016-17)**

Ghatkopar Sahajivan Co-op.Housing Society Ltd., Salsa House Plot No.26, Nath Pai Nagar, Gahtkopar East, Mumbai-400077.	बनाम/ Vs.	NFAC Mumbai-400020.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACAG6938Q		
(अपीलार्थी /Appellant)		(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से / Appellant by :	None
प्रत्यर्थी की ओर से/Respondent by :	Shri Anil Gupta.DR

सुनवाई की तारीख / Date of Hearing	23/05/2023
घोषणा की तारीख /Date of Pronouncement	24/05/2023

आदेश / ORDER

PER PAVAN KUMAR GADALE - JM:

The assessee has filed an appeal against the order of Commissioner of Income-tax (Appeals)-National Faceless Appeal Centre, Delhi [“Ld. CIT(A)”] passed under section 250 of the Income Tax Act, 1961 (“the Act”) for the Assessment Year (“AY”) 2016-17. The assessee has raised following grounds of appeal:-

1. “CPC/ACIT 27(1), Mumbai has erred while making adhoc disallowance of Rs.470220/-in intimation u/s.143(1) and also in Rectification u/s.154.

2. *The above impugned disallowance is made due to faulty computerized processing of Income tax Return without appreciating the entire facts.*
3. *The Ld. CIT (A), NFAC erred in dismissing appeal without giving adequate opportunity of hearing and submissions. The earlier two notices dated 5/2/21 and 24/6/21 were served during pandemic of covid and Hon'ble Supreme Court in Misc.application No.21of 2022 extended the time limit for all proceedings.*
4. *The Ld. CIT (A), NFAC also erred in fact that the natural justice has been violated as the appellant was not provided with the show cause notice.*
5. *The Ld. CIT (A) ought to have passed speaking order on merits and sufficient opportunity of hearings/submissions ought to have been granted to the appellant.”*

2. The Brief facts of the case are that, the assessee is a co-operative housing society and works on principles of mutuality. The assessee has filed return of income for AY 2016-17 on 03.02.2018 disclosing a total income of Rs.NIL. The return of income was processed u/s 143(1) of the Act on 14.06.2018 and the assessed income was determined at Rs.4,70,220/-. Against the intimation U/sec143 (1) of the Act, the assessee has filed a rectification petition and it was rejected vide order u/s 154 of the Act dated 5-06-2020.

3. Aggrieved by the rectification order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the

grounds of appeal, statement of facts and findings of the Assessing Officer (“AO”) and has issued notices of hearing and since there was no compliance by the assessee to notices. Therefore, the CIT(A) considering the information on record has confirmed the action of the A.O and dismissed the assessee appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal. None appeared on behalf of the Assessee.

4. We heard the Ld.DR submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no appearance in spite of providing adequate opportunity of hearing and the notices were issued. Therefore, the CIT(A) was of the opinion that the assessee is not interested in prosecuting the appeal and dismissed the appeal ex-parte confirming the action of the assessing officer. The Ld. CIT(A) has issued the notices of hearing referred at Page 2 Para 4 of the order, but there was no response and thus the Ld.CIT(A) came to a conclusion that the assessee is not interested and decided the appeal based on the information available on record. Whereas the assessee has raised grounds of appeal challenging the additions of the A.O and there could be various reasons for non appearance which cannot be overruled. Therefore, considering the principles of natural justice shall provide one more opportunity of hearing to the assessee to substantiate the case with evidences and information. Accordingly, set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh and the assessee should be provided adequate opportunity of hearing and

shall cooperate in submitting the information for early disposal of the appeal. Accordingly, allow the grounds of appeal of the assessee for statistical purposes.

5. In the result, the appeal filed by assessee is allowed for statistical purposes.

Order pronounced in the open court on 24.05.2023.

Sd/-

**(PADMAVATHY S)
ACCOUNTANT MEMBER**

Mumbai, Dated 24/05/2023
Amit Kumar, Sr. PS

Sd/-

**(PAVAN KUMAR GADALE)
JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

1.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai