

आयकर अपीलीय अधिकरण
मुंबई पीठ "बी", मुंबई पीठ
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री गगन गोयल, लेखाकार सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER
आअसं.552/मुं/ 2023 (नि.व.2018-19)
ITA NO. 552/MUM/2023(A.Y. 2018-19)

Nahalchand Laloochand Pvt. Ltd.
Ground Floor, Kantilal House,
14, Mama Parmanand Marg,
Opera House, Mumbai – 400 004.
PAN: AAACN-4472-C

..... अपीलार्थी /Appellant

बनाम Vs.

Dy. Commissioner of Income Tax,
Circle 5(2)(1),
Room No.571, 5th Floor,
Aaykar Bhavan, M.K.Road,
Mumbai 400 020.

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Kumar Kale

प्रतिवादी द्वारा/Respondent by : Shri Chetan Kacha

सुनवाई की तिथि/ Date of hearing : 26/04/2023

घोषणा की तिथि/ Date of pronouncement : 26/04/2023

आदेश/ ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'the CIT(A)'] dated 27/12/2022, for the assessment year 2018-19.

2. Shri Kumar Kale appearing on behalf of the assessee submitted at the outset that the CIT(A) has decided the appeal of assessee without affording sufficient opportunity of making submissions/hearing to the assessee. He pointed that only one notice was issued to the assessee on 29/11/2022 for 08/12/2022. The assessee on 08/12/2022 filed letter seeking adjournment on the ground that the assessee is in the process of gathering material from multiple sources. The CIT(A) without allowing further opportunity to make submissions decided the appeal, ex-parte.

3. Per contra, Shri Chetan Kacha representing the Department defending the impugned order submitted that the notice was given to the assessee, however, the assessee failed to utilize the opportunity and make submissions.

4. Both sides heard, impugned order examined. The CIT(A) in the impugned order mentioned that “notices were issued u/s. 250 of the Act from time to time on ITBA”. The assessee has placed on record the details of notices issued by First Appellate Authority. A perusal of the same reveals that apart from initial notice issued on 09/11/2022, the CIT(A) had issued solitary notice u/s. 250 of the Income Tax Act, 1961 [in short ‘the Act’] on 29/11/2022. The assessee prayed for adjournment on the date fixed . The CIT(A) ignoring the request of the assessee decide the appeal vide impugned order in an ex-parte proceedings. The recording of fact by the CIT(A) that multiple notices were issued u/s. 250 of the Act is contrary to the records. Considering the entire facts, we deem it appropriate to restore this appeal back to the file of CIT(A) for deciding the appeal of assessee afresh after affording reasonable

opportunity to the assessee to make submissions/ of hearing, in accordance with law.

5. In the result, impugned order is set-aside and appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Wednesday the 26th day of April, 2023.

Sd/-

(GAGAN GOYAL)

लेखाकार सदस्य/ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/Dated 26/04/2023

Vm, Sr. PS(O/S)

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
- 4.. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्ड फाइल/Guard file.

//True Copy//

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

BY ORDER,

(Dy./Asstt. Registrar), ITAT, Mumbai