

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI
BEFORE SHIR PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 513/Mum/2023
(A.Y: 2013-14)

Paramjit Singh Surjit Singh Sethi, 3 rd Floor Sagar Darshan, 40 North Avenue Road, Santacruz (W), Mumbai-400054.	Vs.	ITO- 22(2)(5) Room.no 307,Piramal Chambers Lalbaug, Mumbai-400012.
PAN/GIR No. : AAJPS2891L		
Appellant	..	Respondent

Appellant by :	Mr.Bharat Kumar.AR
Respondent by :	Ms.Jayashree Thakur.DR

Date of Hearing	25.04.2023
Date of Pronouncement	26.04.2023

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The assessee has filed the appeal against the order of National Faceless Appeal Centre (NFAC), Delhi / CIT(A) order passed u/s 250 of the Act. The assessee has raised the following grounds of appeal:

- 1. On the facts and in the circumstances of the case 1,01, and in law, the Ld. CIT (A) erred in confirming addition of Rs. 3, 38,124/- made by Assessing officer u/s 14A of the Act.*

2. On the facts and in the circumstances of the case and in law, the Ld. CIT (A) in confirming addition of Rs. 5,82,990/-on account of rent from house property as income from other source income.

3. The Assessee craves leave to add, alter or amend N.A the existing Grounds of appeal on or before the date of hearing

2. The brief facts of the case that, the assessee is an individual and derives income from house property, business and other sources. The assessee has filed the return of income for the A.Y 2013-14 on 29.09.2013 disclosing a total income of Rs. 17,77,690/- and the return of income was processed u/s 143(1) of the Act. Subsequently the case was selected for scrutiny and notice u/s 143(2) and 142(1) of the Act are issued. In compliance to the notice, the Ld. AR of the assessee appeared from time to time and submitted the details and the case was discussed. The AO on perusal of the facts found that the assessee has derived rental income and has claimed deduction of Rs. 87,300/- towards rent paid and 30% towards repairs and maintenance and the net income offered of Rs. 4,08,093/-.Whereas the AO has observed that the assessee has paid the rent to the owner and therefore the income is taxable at

Rs.5,82,990/- under the income from other sources. Similarly the AO has made the disallowance u/s 14A of the Act and assessed the total income of Rs. 22,90,710/- and passed the order u/s 143(3) of the Act dated 18.01.2016.

3. Aggrieved by the 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 AO and has issued notices of hearing and since there was no compliance/submissions 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 appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld. AR submitted that the CIT(A) has erred in confirming the action of the Assessing officer overlooking the submissions made in the assessment proceedings. Further the assessee has a good case on merits and shall substantiate with the material evidences and prayed for an opportunity to

explain before the lower authorities. Contra, the Ld. DR supported the order of the CIT(A).

5. Heard the rival submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no appearance/submissions 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 on various dates referred at Para 3 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.

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

Order pronounced in the open court on 26.04.2023.

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 26.04.2023

KRK, PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Mumbai
6. Guard File

आदेशानुसार/ BY ORDER,

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1.

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Paramjit Singh Surjit Singh Sethi, Mumbai.

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(Asst. Registrar)
ITAT, Mumbai