

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"H" BENCH, MUMBAI**

**SHRI B.R. BASKARAN, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 1151/MUM/2023  
(Assessment Year: 2012-13)**

**Kamlesh Gala,**  
102 Elegance Apartment,  
Kalina Kurla Road, Opp. Canara Bank,  
Santacruz (East),  
Mumbai - 400098  
[PAN: ACCPG6590P]

..... **Appellant**

**Income Tax Officer  
22(2)(1) Mumbai**  
Room No. 312, 3<sup>rd</sup> Floor,  
Piramal Chambers, Lalbaug,  
Parel, Mumbai - 400012

Vs

..... **Respondent**

**Appearance**

For the Appellant/Assessee : None  
For the Respondent/Department : Shri Prakash Kishinchandani

**Date** : 29.08.2023  
Conclusion of hearing : 31.08.2023  
Pronouncement of order

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. By way of the present appeal the Appellant has challenged the order, dated 10/02/2023, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'the CIT(A)'] for the Assessment Year 2012-13, whereby the Ld. CIT(A) had dismissed the appeal of the Assessee against the Assessment Order, dated 27/11/2019, passed under Section 144 read with Section 147 of the Income Tax Act, 1961

(hereinafter referred to as 'the Act').

2. When the appeal was taken up for hearing, none appeared on behalf of the Appellant.
3. Responding to a query from the Bench, the Ld. Departmental Representative submitted that assessment was framed on the Appellant under Section 144 read with Section 147 of the Act since the Assessee did not attend the hearing. Even in the appellate proceedings before the CIT(A), the Appellant failed to comply with the notices of hearing and therefore, the CIT(A) was justified in dismissing the appeal.
4. We have perused the record and find that during the assessment proceedings notice under Section 142(1) of the Act were issued on 14/10/2019 and 25/10/2019, which were followed by show cause notice dated 08/11/2019. Thereafter, last and final hearing notice dated 13/11/2019 was sent to the Appellant. Thus, all the opportunities granted to the Assessee during the assessment proceedings were within a span of one month only. In appellate proceedings before CIT(A), notices of hearing was sent to the Appellant for four hearings fixed for 01/02/2021, 08/04/2022, 22/04/2022 and 06/02/2023. However, the Appellant did not comply with the notice of hearings and therefore, the CIT(A) dismissed the appeal in the following manner:

*"5. Conclusion*

*I have gone through the impugned order, grounds of appeal and statement of facts are per Form 35.*

*Notices of hearing were issued several times fixing dates of hearing on 01/02/2021, 08/04/2022, 22/04/2022 & 06/02/2023. However, there has been no compliance has been filed nor any written*

*submissions have been filed in support of grounds of appeal.*

*In the absence of any written submissions on the part of the Appellant, the appeal is decided on the basis of material on record.*

*During the appellate proceeding, no written submissions or any documentary evidence were filed by the Appellant in support of grounds of appeal and hence I am unable to grant any relief to the Appellant and hence the appeal of the assessee is dismissed."*  
*(Emphasis Supplied)*

5. On perusal of above, we find that the CIT(A) has dismissed the appeal by observing that there was no material on record to grant relief to the Appellant without considering the material on the basis of which addition was made by the Assessing Officer. Further, we note that the period during which opportunity of being heard was granted with the Appellant coincided with the period during which Covid-19 Pandemic was spread. Therefore, keeping the view the aforesaid facts and circumstances of the case, we deem it appropriate to set aside the order dated 10/02/2023, passed by CIT(A) with the direction to adjudicate the grounds of appeal afresh after granting reasonable opportunity to the Appellant of being heard. We note that there is no change in the address of the Appellant as stated in the Assessment Order and the appeal in Form 36 filed before the Tribunal. Further, in Form 35 filed before the CIT(A), the Appellant has opted for communication of notices over e-mail and has given e-mail ID as kpgala1978@gmail.com. The Appellant is directed to take appropriate steps in case there is a change of address or e-mail ID. Further, the Appellant is directed to co-operate and not take unnecessary adjournments during the appellate proceedings before the CIT(A). In terms of aforesaid, Ground No. 1 raised by the Appellant is allowed for statistical purposes while Ground No. 2 raised by the Appellant is dismissed as being infructuous.

6. In result, the present appeal preferred by the Assessee is allowed for statistical purposes.

Order pronounced on 31.08.2023.

**Sd/-**  
**(B.R. Baskaran)**  
**Accountant Member**

**Sd/-**  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated : 31.08.2023  
Alindra, PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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