

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "D", MUMBAI

Before Shri B R Baskaran, Hon'ble Accountant Member,
& Shri Sandeep Singh Karhail, Hon'ble Judicial Member

ITA No.1957/Mum/2023
(Assessment Year: 2011-12)

RT Star Diamonds, FW 6080, Bharat Diamond Bourse, Bandra Kurla Complex, Bandra (East), Mumbai 400 051	Vs.	ITO Ward 19(3)(1), Mumbai.
PAN AAFRR3885B		
(Appellant)		(Respondent)

ITA No. 1958/Mum/2023
(Assessment Year: 2011-12)

ITO Ward 19(3)(1), Mumbai.	Vs.	RT Star Diamonds, 101 Khatau Wadi, 263 C, Goregaonkar Lane, Girgaum, Mumbai 400 004.
		PAN AAFRR3885B
(Appellant)		(Respondent)

For the Assessee : None

For the Revenue : Smt Sanyogita Nagpal (CIT-DR)

Date of Hearing :17.10.2023	Date of Pronouncement : 17.10.2023
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ORDER

Per B R Baskaran, Accountant Member:

These cross appeals are directed against the order dated 30.03.2023 passed by the learned CIT(A), NFAC, Delhi and they relate to the assessment year 2011-12.

2. The assessee is aggrieved by the decision of the learned CIT(A) in confirming the addition relating to alleged bogus purchases. The Revenue is aggrieved by the order of the CIT(A) in granting relief in respect of disallowance of expenses and carry forward losses.

3. None appeared on behalf of the assessee, even though the adjournment was granted on last occasion at the request of the assessee. The learned DR pointed out that the assessee has not appeared before the AO and, hence, he was constrained to pass the order *ex parte* u/s. 144 of the Act to the best of his judgment. Further the assessee also did not appear before the CIT(A) and, hence, the First Appellate Authority has passed the order *ex parte*, without hearing the assessee. Under these set of facts the learned DR submitted that all the issues contested by the assessee as well as the Revenue may be restored to the file of the CIT(A) for adjudicating them afresh after hearing the assessee. The learned DR also submitted that the assessee may be imposed cost for not appearing before the tax authorities as well as before the Tribunal.

4. In view of the above said submissions made by the learned CIT-DR, we proceed to dispose of these appeals *ex parte*, without hearing the assessee.

5. Since the learned CIT(A) has passed the order *ex parte*, in the interest of natural justice, we are of the view that the assessee may be provided with one more opportunity to present its case before Ld CIT(A). We note that the assessee did not appear before the AO as well as the CIT(A). No explanation has been furnished for this lethargic behavior of the assessee. Accordingly, we impose a fine of Rs.5,000/- (Rupees Five Thousand Only) upon the assessee in order to make it understand the seriousness of income tax

matters. The assessee shall deposit this amount within two months of the receipt of this order to the credit of Income Tax Department as 'Other Fees'.

6. Subject to the payment of the above said cost, which shall be verified by the learned CIT(A), the order passed by Ld CIT(A) is set aside and all the issues are restored to his file for adjudicating them afresh after providing adequate opportunity of being heard to the assessee.

7. In the result, the appeals filed by the assessee as well as the Revenue are treated as allowed for statistical purposes.

Order pronounced in the open court on 17th October, 2023.

Sd/-
(Sandeep Singh Karhail)
JUDICIAL MEMBER

Sd/-
(B R Baskaran)
ACCOUNTANT MEMBER

Mumbai, Dated : 17th October, 2023
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Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The PCIT, Mumbai.
4. The CIT
5. The DR, 'D' Bench, ITAT, Mumbai

BY ORDER

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(AssistantRegistrar)
Income Tax Appellate Tribunal, Mumbai