

preferred by the Assessee against the assessment order on account of non-prosecution. Therefore, the appeals were heard together and are being disposed by way of common order.

- 1.1. ITA No. 2365/MUM/2023 pertaining to Assessment Year 2010-11 has been preferred by the Assessee challenging the order, dated 30/11/2022, passed by CIT(A) dismissing the appeal of the Assessee against the Assessment Order, dated 25/10/2016, passed under Section 143(3) read with Section 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').
- 1.2. ITA No. 2429/MUM/2023 pertaining to Assessment Year 2011-12 has been preferred by the Assessee challenging the order, dated 02/12/2022, passed by CIT(A) dismissing the appeal of the Assessee against the Assessment Order, dated 21/03/2014, passed under Section 143(3) of the Act.
- 1.3. ITA No. 2428/MUM/2023 pertaining to Assessment Year 2012-13 has been preferred by the Assessee challenging the order, dated 30/11/2022, passed by CIT(A) dismissing the appeal of the Assessee against the Assessment Order, dated 17/02/2015, passed under Section 143(3) of the Act.
- 1.4. ITA No. 2363/MUM/2023 pertaining to Assessment Year 2013-14 has been preferred by the Assessee challenging the order, dated 30/11/2022, passed by CIT(A) dismissing the appeal of the Assessee against the Assessment Order, dated 31/12/2015, passed under Section 143(3) of the Act.
- 1.5. ITA No. 2364/MUM/2023 pertaining to Assessment Year 2014-15 has been preferred by the Assessee challenging the order, dated

23/12/2022, passed by CIT(A) dismissing the appeal of the Assessee against the Assessment Order, dated 30/11/2016, passed under Section 143(3) of the Act.

1.6. Identical grounds of appeal have been raised by the Assessee in each of the five appeals. Grounds of appeal raised in appeal for the Assessment Year 2010-11 read as under:

- "1. *On the facts and in the circumstances of the case and in law, the Learned Commissioner of Income Tax (Appeal) erred in passing the ex-parte order.*
2. *On the facts and in the circumstances of the case and in law, the Learned Commissioner of Income Tax (Appeal) erred in not granting proper opportunity of being heard.*
3. *On the facts and in the circumstances of the case and in law, the Learned Commissioner of Income Tax (Appeal) erred in dismissing the appeal in limine.*
4. *On the facts and in the circumstances of the case and in law, the Learned Commissioner of Income Tax (Appeal) erred in confirming the AO's action of making various additions/disallowance.*
5. *The appellant craves leave to add to, alter, amend, modify and /or delete all or any of the foregoing grounds of appeal.*

The appellant prays before the Hon'ble Tribunal to delete the additions/ disallowance made by the AO and confirm by the Ld CIT(A) and/ or any other relief as the Hon'ble Tribunal may deem fit."

2. The primary grievance of the Assessee common to all the 5 appeals is that the CIT(A) has dismissed each of five appeals in limine on the ground of non-prosecution without examining the merits as the Assessee had failed to appear before the CIT(A).

3. The Ld. Authorised Representative for the Assessee appearing

before us submitted that all the five appeals were filed before the CIT(A) in physical form. Subsequently, the appeals were migrated to National Faceless Appeal Centre (NFAC). The earlier Authorised Representative of the Assessee failed to keep track of the appellate proceedings and the Assessee was proceeded ex-parte by the CIT(A). The Ld. Authorised Representative for the Assessee submitted that the Assessee had filed submissions before the CIT(A) in physical forms prior to migration of the appeals. However, the CIT(A) even failed to consider the same while dismissing the appeals on the ground of non-prosecution.

4. In response, the Ld. Departmental Representative disputed the submission made by the Ld. Authorised Representative pointing out that the submissions placed before the Tribunal in the form of the paper-book filed by the Assessee did not bear any stamp as proof of filing the same before CIT(A). Further, the Ld. Departmental Representative also pointed out that the appeals filed by the Assessee were barred by limitation.
5. Explaining the reason for delay in filing the appeals, the Ld. Authorised Representative for the Assessee submitted that the earlier authorised representative for the Assessee was maintaining the login credential and the relevant e-mail IDs along with access codes and passwords having been entrusted with the responsibility of keeping track of appellate proceedings and representing the interest of the Assessee in the appellate proceedings. However, inadvertently the earlier authorised representative failed to do the same. As a result, the Assessee was proceeded ex-parte and order passed by the CIT(A) dismissing the appeal of the Assessee for non-prosecution. The order passed by the CIT(A) in each of the five

of appeals were also uploaded online. However, since the earlier authorised representative failed to track the appellate proceedings, neither the earlier authorised representative nor the Assessee had knowledge about the same. Subsequently, on getting knowledge of the order of dismissal having been passed in all the five appeals, the concerned person of the Assessee-Company confronted the earlier authorised representative who admitted his mistake. Soon thereafter, the Assessee obtained legal professional help and filed the appeal before the Tribunal. In the process there was a delay in filing the appeal ranging from 132 to 163 days in different appeals. The Ld. Authorised Representative for the Assessee vehemently contended that there was an inadvertent bonafide mistake on the part of the Assessee and its earlier authorised representative which resulted in delay in filing the appeals and prayed that the delay be condoned.

6. We have heard the rival contention and perused the material on record. We note that the CIT(A) has dismissed each of the five appeals on the ground of non-prosecution without examining the merits. The Assessee did not set to gain anything by delaying the filing the appeals. We have no reason to disbelieve the explanation offered by the Assessee and therefore accept the explanation offered by the Assessee that the delay in filing the appeals has been caused by bonafide inadvertent mistake on the part of the earlier of the authorised representative in discharging the duties. Keeping the view overall facts and circumstances of the case, we are of the view that the Assessee was prevented by reasonable cause in filing the appeals within the prescribed time. Accordingly, in view of the explanation offered by the Assessee, the delay in

each of the five appeals is condoned. Since, the appeals were dismissed on account of non-prosecution, the impugned order passed by the CIT(A) in the respective appeals is set aside and each appeal filed by the Assessee before CIT(A) is restored to its original number with the direction to the CIT(A) to dispose of the same after adjudicating the merits after granting the Assessee a reasonable opportunity of being heard. The Assessee is also directed to furnish all the relevant details and documents on which the Assessee wishes to place reliance before CIT(A) on receipt of notice of hearing and pursue the appeal diligently.

7. In view of the above, Ground No. 3 raised by the Assessee in each of the five appeals is allowed while all the other grounds raised by the Assessee are disposed of as being infructuous.
8. In result, all the five appeals preferred by the Assessee are allowed for statistical purposes.

Order pronounced on 18.10.2023

Sd/-

(B.R. Baskaran)
Accountant Member

Sd/-

(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 18.10.2023
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