

IN THE INCOME TAX APPELLATE TRIBUNAL "F" BENCH, MUMBAI

BEFORE SHRI ABY T. VARKEY, JM AND SHRI AMARJIT SINGH, AM

आयकर अपील सं/ I.T.A. No.2303/Mum/2023

(निर्धारण वर्ष / Assessment Year: 2015-16)

Jitendra Madhusudan Patel Flat No.303, E-Wing, Dheeraj Heritage-2, Daulat Nagar, Santacruz West, Mumbai-400054.	बनाम / Vs.	ITO-24(2)(2) Room No.514, 5 th Floor, Piramal Chambers, Parel, Mumbai-400012.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAJPP3280C		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
Assessee by:	Ms. Vinita Shah	
Revenue by:	Shri Ujjawal Kumar Chavan (Sr. AR)	

सुनवाई की तारीख / Date of Hearing: 27/09/2023

घोषणा की तारीख /Date of Pronouncement: 17/10/2023

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)/(NFAC), Delhi dated 08.06.2023 for the assessment year 2015-16.

2. At the outset, the Ld. AR of the assessee Ms. Vinita Shah submitted that the impugned order of the Ld. NFAC is an *ex-parte* order without hearing the assessee. According to Ld.AR, the assessee was not aware of the notices of hearing, because, the same were forwarded to the e-mail ID of earlier Chartered Accountant i.e. kishormehta777@yahoo.in and the office of Ld.CIT(A)/NFAC did not forward it to the e-mail ID: jitupt@gmail.com, which assessee has updated in his profile on the income tax portal. In this regard, it is noted that the Ld. CIT(A)/NFAC has issued notices four (4) times and finding no reply from the assessee, he concluded that the assessee was not interested in pursuing the appeal. Therefore, he confirmed the



ITA No.2303/Mum/2023
A.Y. 2015-16
Jitendra Madhusudan Patel

action of the AO without adjudicating the grounds of appeal raised by the assessee on merits. This action of the Ld. NFAC cannot be accepted, because, the First Appellate Authority is bound to decide the grounds of appeal raised by the assessee in accordance to sub-section (6) of section 250 of the Income Tax Act, 1961 (hereinafter “the Act”). And since the Ld. CIT(A) has not decided the grounds of appeal on merits, as well as the fact that assessee did not get proper opportunity of hearing [since he did not receive the notices due to incorrect email-ID, technical glitches etc] and since the Ld. NFAC has not mentioned about proof of serving of notices to the assessee, we are inclined to set aside the impugned order of the Ld. CIT(A)/NFAC and restore the appeal back to his file with a direction to adjudicate the grounds of appeal raised by assessee in accordance to sub-section (6) of section 250 of the Act. The Ld. AR/assessee is directed to file relevant documents/written submission to support the grounds of appeal raised before the First Appellate Authority and may request for hearing in accordance to Rules if he desires. And the Ld. CIT(A) to pass the order in accordance to law after hearing the assessee.

3. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on this 17/10/2023.

Sd/-

(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-

(ABY T. VARKEY)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 17/10/2023.
Vijay Pal Singh, (Sr. PS)



ITA No.2303/Mum/2023
A.Y. 2015-16
Jitendra Madhusudan Patel

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

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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