

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

ITA No. 2752/Mum/2023
(A.Y: 2017-18)

Bhaskar Balu Bhise, B-17, Triveni Raja Yayati CHS Ltd, Sector – 15, Vashi, Navi Mumbai - 400703	Vs	NFAC, Delhi-110001.
PAN/GIR No. : ABJPB8861A		
Appellant	..	Respondent

Assessee by :	Shri.Sushant.N.Alme.AR
Revenue by :	Shri. S.G.Menon. Sr.DR

Date of Hearing	09.11.2023
Date of Pronouncement	15.11.2023

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The appeal is filed by the assessee against the order of the National Faceless Appeal Centre (NFAC) Delhi / CIT(A) passed u/sec147 r.w.s144B and U/sec 250 of the Ac. The assessee has raised the following grounds of appeal:

1 On the facts and in the circumstances of the case and in law, the Ld. Assessing Officer has wrongly disallowed the bonafide claim of deduction under chapter VI-A of the Income Tax Act, 1961, pertaining to the deduction u/s 80C and 80CCD(2) of the Act and the CIT(A) was also not justified in dismissing the appeal both on facts and circumstances of the case.

2 On the facts and in the circumstances of the case and in law, the LdCIT(A) has failed to provide reasonable opportunity of hearing and thereby depriving the natural justice to the appellant

3 The appellant craves leave to add, amend, alter, modify, substitute, vary, delete, and rescind all or any of the above ground(s) of appeal before or at the time hearing.

2. The brief facts of the case are that, the assessee is a salaried employee and has filed the return of income for the A.Y 2017-18 on 04.07.2017 disclosing a total income of Rs. 6,13,930/- after claiming deduction under chapter VIA of Rs.2,25,000/- The Assessing Officer (AO) found that in the survey operations U/sec133A of the Act, in the case of Tax practitioner, the assessee has claimed excess deduction under chapter VIA of the Act. The A.O has reason to believe that the income has escaped assessment and issued notice u/sec148 of the Act. Subsequently notice u/sec 142(1) of the Act was issued. The AO has called for the details of Form.No.16 along with enclosures, copy of Form.no.26AS, and the documentary evidence in support of claims made under chapter VI-A and reconciliation of Form.No.26AS

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amount with the return of income filed. In response to notice, the assessee has uploaded the information on 12.01.2022. Whereas on perusal of the Form.No.16, the A.O found that the assessee has claimed deduction under chapter VIA for the investments made as per Sec.80C of the Act amounting to Rs.1,49,646/- and as per the Sec. 80CCD of the Act i.e National Pension Scheme of Rs.15,000/- all aggregating to Rs.1,64,464/-. Whereas as per the return of income filed, the assessee has claimed deduction Under Chapter VA of the Act of Rs. 2,25,000/- which include deduction as per Sec.80GG of the Act amounting to Rs.60,000/-.The assessee was asked to produce the copy of rental agreement, rent receipts and bank statement reflecting the payments. Since the assessee could not substantiate with the requisite details, the A.O has disallowed the deduction under chapter VI A of the Act Rs. 2,25,000/- and similarly made addition of suppressed salary of Rs.35,400/-. Finally the A.O has assessed the total income of Rs.8,74,330/- and passed the order u/sec 147 r.w.s 144B of the Act dated 23.03.2022.

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 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 in support of claim of deduction under Chapter VIA of the Act and prayed for an opportunity to explain before the lower authorities. Contra, the Ld. DR supported the order of the CIT(A).

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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 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 06-06-2023 and 19-06-2023 referred at Page 2 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 addition of salary income and denial of claim of deduction under Chapter VA of the Act and there could be various reasons for non appearance which cannot be overruled. The Ld.AR emphasized that the assessee has a good case on merits and referred to the paper book page 36 to 42 in respect of Form.No16 and certificate issued by the employer. Therefore, considering the principles of natural justice shall provide with one more opportunity of hearing to the assessee to substantiate the case with evidences and information. Accordingly, set aside

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the order of the CIT(A) and remit the entire disputed issues to the file of the Assessing Officer to adjudicate afresh and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information. Accordingly, allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 15.11.2023.

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 15.11.2023

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

ITA No. 2752/Mum/2023
Bhaskar Balu Bhise, Mumbai.

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आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

(Asst. Registrar)
ITAT, Mumbai