

IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, MUMBAI  
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER  
ITA No. 2447/Mum/2023  
(A.Y: 2014-15)

Shweta Shyam Pedamkar Jheel, B-101, Sanghvi Nagar, Mira Bhayander Road, Mira Road (E), Mumbai-401107.	Vs.	ITO – 25(1)(2) BKC, Bandra, Mumbai.
PAN/GIR No. : BGZPP3221L		
Appellant	..	Respondent

Assessee by :	Shri AjaySingh&AkshayPawar.AR
Revenue by :	Shri. G.J. Ninawe. Sr. DR

Date of Hearing	30.10.2023
Date of Pronouncement	31.10.2023

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/sec 144 and U/sec 250 of the Ac.

2. At the time of hearing, the Ld.AR of the assessee submitted that there is a delay in filing the appeal before the Hon'ble Tribunal and the assessee has filed the application for condonation of delay. Whereas, the facts mentioned in the application are reasonable and the Ld.DR

has no specific objections. Accordingly, condone the delay and admit the appeal.

3. The assessee has raised the following grounds of appeal:

*1 .That on the facts and in the circumstances of the case and in law, learned Assessing Officer has erred in determining total income of the appellant at Rs. 81,58,700/- as against Rs. 2,30,040/- declared by the appellant*

*2. Without prejudice to the generality of the ground of appeal no.1 above, on the facts and in the circumstances of the case and in law, learned Assessing Officer has erred in making addition of Rs. 81,58,700/- even after giving statement by the appellant before the Investigation Department and AO.*

*3Without prejudice to the generality of the ground of appeal no.1 above, on the facts and in the circumstances of the case and in law, learned Assessing Officer has erred in holding that Rs. 81,58,700/- was chargeable to tax u/s 115BBE of the Act as the same is considered by him as unexplained money u/s 69A of the Act*

*4. That the impugned order being contrary to law, evidence and facts of the case may kindly be set aside, amended or modified in the light of the grounds of appeal enumerated above.*

5. *That each of the grounds of appeal enumerated above is without prejudice to and independent of one another.*

6. *That the appellant craves leave to reserve to herself the right to add to, alter or amend any of the aforesaid grounds of appeal before or at the time of hearing and to produce such further evidence, documents and papers as may be necessary.*

4. The brief facts of the case are that, the assessee has filed the return of income for the A.Y 2014-15 on 30.03.2016 disclosing a total income of Rs.2,30,040/-. Subsequently, the case was selected for scrutiny and notice u/sec 143(2) and u/sec142(1) of the Act are issued and there was no response. The Assessing officer (AO) as per the AIR information found that the assessee has made investment in shares of Rs.16,57,970/- and the assessee was called to explain the sources and there was no compliance. Further the A.O found that the assessee has sold shares of Rs.63,97,746/- as per the AIR data information and the assessee was called to furnish the evidences in respect of sale value. Since there was no compliance from the assessee, in spite of providing sufficient opportunities, the A.O relied on the information as per AIR and treated as unexplained cash credit U/sec68 of the Act and assessed the total income of Rs.81,58,700/-

and passed the order u/sec 144 of the Act dated 26.12.2016.

5. 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.

6. 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 facts of the assessment proceedings and the non appearance before the appellate authority is not an wanton act but the circumstances beyond control of the assessee. Further the assessee has a good case on merits and shall substantiate with the material evidences and prayed for an opportunity to explain before the lower authorities. Contra, the Ld. DR supported the order of the CIT(A).

7. 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 8-01-2021, 8-12-2021, 29-12-2021, 12-01-2022 & 22-03-2022 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 additions of the A.O and there could be various reasons for non appearance which cannot be overruled. 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 the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh and the assessee should be provided adequate opportunity of hearing and shall cooperate in

submitting the information for early disposal of the appeal. Accordingly, allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 31.10.2023.

Sd/-  
(PAVAN KUMAR GADALE)  
**JUDICIAL MEMBER**

Mumbai, Dated 31.10.2023

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

सत्यापित प्रति //True Copy//

1.

आदेशानुसार/ BY ORDER,

( Asst. Registrar)  
ITAT, Mumbai