

IN THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH, MUMBAI
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER

ITA No. 3151/Mum/2023
(A.Y: 2013-14)

Farook Saidu Shaikh, 372, Madanwadi, Bazar Road, Bandra West, Mumbai-400050.	Vs.	ITO-23(1)(4), Piramal Chambers, Lalbaugh, Mumbai-400013.
PAN/GIR No. : ABDPS2247M		
Appellant	..	Respondent

Appellant by :	None
Respondent by :	Shri.Ujjawal Kumar Chavan.Sr.DR

Date of Hearing	27.12.2023
Date of Pronouncement	28.12.2023

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The assessee has filed the appeal against the order of the National Faceless Appeal Centre (NFAC)/CIT(A), Delhi passed u/sec 250 of the Act. The assessee has raised the following grounds of appeal:

- 1. While Uploading the income tax return the assessee return filing time tax consultant staff by mistake shown the capital of the assessee of Rs. 26188228/- (Rupees Two Crore Sixty One Lakh Eighty Eight Thousand Two Hundred & Twenty Eight Only).*

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2. *The Copies of Balance sheet of the assessee for the years ending on 31/03/2011, 31/03/2012 & 31/03/2014 are attached herewith along with copies of the income tax return filed. In this return it can be seen that assessee capital was never Rs. 26188228/-. From the bank accounts of the assessee it can be seen that the assessee that the assessee was not having any huge bank transaction.*

3. *By Mistake assessee tax consultant staff while uploading the income tax return filed the details of Mr. Sanjiv Vachari it also appeal by mistake in other client in 7 cases capital of Rs. 26188228/- the copies of the Income Tax Returns filed balance sheet etc one attached herewith.*

4. *Due to the Tax consultant surgery the mistake has occurred actually Tax consultant hospitalized to his cancer Treatment suffering from (Prostate Cancer) his Medical bills are attached herewith, so the Tax Consultant has to depend totally on his staff for the office work. So this is Human Error, The assessee was not having any molaside intension*

2. The brief facts of the case that, the assessee is engaged in the business and has filed the return of income for the A.Y 2013-14 on 09.10.2013 disclosing a total income of Rs.2,03,890/-. Subsequently the case was selected for scrutiny under CASS and the Assessing Officer (A.O) has issued notice u/sec 143(2) and U/sec142(1) of the Act along with the questionnaire. In compliance to the notices, the Ld. AR of the assessee appeared from time to time and

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submitted the details. The AO on perusal of the financial statements found that the assessee has mentioned the proprietor's capital in the balance sheet and also investments in the assets. Therefore the A.O has issued notice U/sec 142(1) of the Act calling for the details of capital introduction and investments. Whereas the assessee has filed explanations vide letter dated 29.10.2015 mentioning the mistake committed by the staff in submitting the details of other assessee in the financial statements. The AO has dealt on the facts and information submitted by the assessee, at Para 4.2 of the order and issued show cause notice. Since there was no compliance or reply to the show cause notice issued to the assessee. The A.O. relied on the information available on record and made addition of Rs.2,61,88,227/- u/sec 68 of the Act and assessed the total income of Rs.2,63,92,117/- and passed the order u/sec 143(3) of the Act dated 16.03.2016.

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 proper 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, none appeared on behalf of the assessee. The Ld. DR supported the order of the CIT(A).

5. We heard the Ld.DR submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no compliance 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 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

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has raised grounds of appeal challenging the addition 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 on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of appeal. And, we 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 28.12.2023.

Sd/-
(GAGAN GOYAL)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 28.12.2023

KRK, PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//()

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(Asst. Registrar)
ITAT, Mumbai