

**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH : BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
MS. MADHUMITA ROY, JUDICIAL MEMBER**

ITA No. 920/Bang/2023
Assessment Year : 2017-18

Smt. Yashodha, No. 10 & 11, Katha No. 58, E Patel Narayanaswamy Layout, Chunchanghatta Main Road, Bangalore – 560 062. PAN: AKMPY1765G	Vs.	The Income Tax Officer, Ward – 4(3)(5), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Ravishankar, Advocate
Revenue by	:	Shri V. Parithivel, JCIT (DR)

Date of Hearing	:	03-01-2024
Date of Pronouncement	:	08-01-2024

ORDER

PER MADHUMITA ROY, JUDICIAL MEMBER

The assessee has challenged the order dated 25.10.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi arising out of the order dated 09.12.2019 passed by the ITO, Ward – 4(3)(5), Bangalore u/s. 144 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for A.Y. 2017-18.

2. At the time of hearing the instant appeal, the Ld.Counsel appearing for the assessee submitted before us that though

the assessee mentioned proper email ID as appearing in Form 35, the notice was issued to another email ID as a result whereof the assessee has not been aware of the date of hearing fixed by the Ld.CIT(A). Finally ex-parte order was passed by the NFAC upholding the order passed by the Ld.AO.

3. In this regard, he has drawn our attention to Form 35 annexed to the appeal memo wherein the email ID of the assessee is reflecting. He prays for quashing of the order passed by the NFAC which is a product of violation of principle of natural justice as contended by him. The assessee further prays for setting aside the issue to the file of Ld.AO for proper adjudication of the issue afresh. Such submissions made by the Ld.Counsel appearing for the assessee has not been able to be controverted by the Ld.DR.
4. We have perused the Form 35 wherein the assessee's mail ID is reflecting which is different from the email ID used by the revenue while issuing notices to the assessee as per records available before us.
5. Thus having heard the Ld.Counsel appearing for the parties and having regard to the facts and circumstances of the case particularly the difference of email ID i.e. ID mentioned in Form 35 and the ID to which notices were served by the revenue upon the assessee, we find that the impugned order is not a valid one as the same dehors the principle of natural justice. The assessee has never been given a proper

opportunity of being heard as the notices issued to the assessee is found to be through incorrect email ID; not the ID mentioned in Form No. 35 filed by the assessee.

6. Thus we in order to prevent the miscarriage of justice, find it fit and proper to set aside the issue to the file of Ld.AO for proper adjudication of the same upon giving opportunity of being heard to the assessee and taking into consideration the evidence the assessee may choose to file at the time of hearing of the matter. We make it clear that the notices to be issued by the revenue in further proceeding should be intimated through the email ID mentioned in Form 35 filed by the assessee. We also make it clear that in the event the assessee does not co-operate with the Ld.AO, the Ld.AO would be at liberty to proceed with the matter strictly in accordance with law.

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

Order pronounced in the open court on 08th January, 2024.

Sd/-
(CHANDRA POOJARI)
Accountant Member

Sd/-
(MADHUMITA ROY)
Judicial Member

Bangalore,
Dated, the 08th January, 2024.
/MS /

Copy to:

1. Appellant
3. CIT
5. Guard file

2. Respondent
4. DR, ITAT, Bangalore

By order

Assistant Registrar,
ITAT, Bangalore