

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, MUMBAI**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER &  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.3240/Mum/2023  
(A.Y. 2010-11)**

Sangeeta Pratap Singh B-205, Bhrahmcharani Apartment, Shanti Park, Mira Road (E) 401107	Vs.	Income Tax Officer Ward -2(4) IT Asher Park, 6 <sup>th</sup> Floor, Room No. 18, Waghle Ind Estate, Thane- 400602
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AWAPS2573G		
Appellant	..	Respondent

Appellant by :	N.A. Kulkarni
Respondent by :	Lieder Panicker

Date of Hearing	27.12.2023
Date of Pronouncement	01.01.2024

आदेश / O R D E R

**Per Amarjit Singh (AM):**

This appeal filed by the assessee is directed against the order passed by the Id. CIT(A)-11, Pune, dated 31.07.2023 for A.Y. 2010-11. The assessee has raised the following grounds before us:

- “1. The learned appellate authority has erred in dismissing order appealed against the A.O. and confirming the demand found unjustified before the eyes of law.*
- 2. Be considered and allow us the submissions in this regard.*
- 3. He has erred in dismissing the appeal on account of non-attendance and non-compliance against the appeal petition filed before appellate authority.*
- 4. In this context, the appellant as and when received the notices have replies for adjournment since, there was difficulty to attend before him upon such time. So far, the last date given for hearing 19th July 2023. The A.R. of the assessee was admitted in the hospital and got discharged*

*after 8 days of period and was advised to take a rest. Thus, the appellant dependent upon A. R. 's advice unable to give response in this context. We have attached doctor's certificate in this regard may please consider this.*

5. *Our earlier grounds made before the first appellate authority be considered in this context, we reiterate the same to be considered on merit and be decided at your end. The merits in this matter i e, the addition done u/s 69 amounting to Rs.7,69,375/- found on the information of DDI. And followed by the A.O. in totality without any further investigation, enquiries and by granting any other opportunity to the adversely effected assessee have no substance that the law consist. He failed to give such opportunity to the assessee hence, the addition done by him found unjustifiable.”*

2. Fact in brief is that return of income declaring total income of Rs.1,61,810/- was filed on 30.04.2010. The case was reopened on the basis of information received from the DCIT Central Circle-6(2), Mumbai that assessee has paid on money in cash to the amount of Rs.7,69,375/- to M/s Ekta & Bhoomi Group for purchasing the flat No. 402, “I” Wing Bhoomi Park at Malad (W), Mumbai. On query the assessee stated that she paid the consideration amount by cheque only and has not paid any amount in cash to the builder towards purchase of the said flat. The AO has rejected the submission of the assessee on the basis of incriminating evidence i.e Excel sheets found during the course of search showing that assessee had paid the impugned on money which was also accepted by the Bhoomi Group. Consequently, the assessing officer has added the cash component of Rs.7,69,375/- paid by the assessee to the total income of the assessee as unaccounted income.

3. The assessee filed the appeal before the ld. CIT(A).The ld. CIT(A) has dismissed the appeal of the assessee on the ground that assessee has not made any compliance to the number of notices issued during the course of appellate proceedings.

4. During the course of appellate proceedings before us the ld. Counsel submitted that assessee could not make any compliance before

the ld. CIT(A) as two notices were issued during the covid period i.e. 29.01.2021 and 24.12.2021 which could not be responded because of prevailing covid pandemic. He further submitted that in respect of other two notices assessee made request for adjournment of the hearings and no compliance could be made to the notice dated 01.11.2022 because of enablement of communication window. The ld. Counsel further submitted that he could not make compliance to the final notice because of hospitalisation due to health problem. Therefore, the ld. Counsel has requested for providing more opportunity at the level of ld. CIT(A) for deciding case on merit.

The ld. D.R supported the order of lower authorities.

5. Heard both the sides and perused the material on record. Without reiterating the facts as elaborated above the ld. CIT(A) has passed the ex-parte order u/s 250 of the Act on the ground that assessee failed to make any response during the course of appellate proceedings. After considering the submission of the assessee it is observed that assessee could not make compliance to the notices for the various reason i.e prevailing covid period and out of station because of hospitalisation etc. The ld. CIT(A) has stated at para 5 and 6 of the appellate order that the assessee has requested for adjournment at two occasion and at one occasion the hearing could not be taken place because of enablement of communication window after the covid period. Further we notice that the Ld. Counsel could not make compliance at the time of final hearing on 19.07.2023 because he was hospitalised because of ill health from 17.07.2023 to 24.07.2023 as per the medical certificate submitted before us by the ld. Counsel at the time of appellate proceedings. We consider because of above circumstances, the ld. CIT(A) could not decide the issue in the appeal on merit as contemplate u/s 250(6) of the Act. In view of the above facts and circumstances for deciding the appeal

on merit we consider it appropriate to provide more opportunity to the assessee at the level of first appellate authority. Therefore, we restore this case to the file of the Id. CIT(A) for deciding de novo after affording opportunity to the assessee. The assessee is directed to make compliance before the Id. CIT(A) without any failure. Therefore, appeal of the assessee is allowed for statistical purpose.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 01.01.2024

Sd/-  
(Rahul Chaudhary)  
Judicial Member

Sd/-  
(Amarjit Singh)  
Accountant Member

Place: Mumbai

Date 01.01.2024

Rohit: PS

**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 DR, ITAT,  
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//  
आदेशानुसार/ BY ORDER,

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