

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

**BEFORE MS PADMAVATHY S, AM &  
SHRI RAHUL CHAUDHARY, JM**

**I.T.A. No. 3427/Mum/2023  
(Assessment Year: 2013-14)**

<b>Anshul Dewat Singhal</b> 401, Shasmira Center, Plot No. 176 Vidya Nagar Marg, Santacruz, Mumbai- 400098 <b>PAN : AAKPS3555N</b>	Vs.	<b>Income Tax Officer-34(1)(1),</b> Kautilya Bhavan, BKC, Bandra (East), Mumbai-400051.
<b>Appellant)</b>	:	<b>Respondent)</b>

**Appellant/Assessee by** : MS. Vinita Shah, CA  
**Revenue/Respondent by** : Shri Manoj Kumar Sinha, Sr. DR

**Date of Hearing** : 06.02.2024  
**Date of Pronouncement** : 06.02.2024

**ORDER**

**Per Padmavathy S, AM:**

This appeal is against the order of the Commissioner of Income Tax (Appeals) / NFAC [for short 'the CIT(A)] dated 17.01.2023 for the AY 2013-14.

The assessee raised the following grounds of appeal:

*“1. On the facts and circumstances of the case as well as in law, the Learned CIT(A) as well as the Learned Assessing Officer has erred in passing the ex-parte order, without granting sufficient opportunity of being heard to the appellant.*

2. *On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirmation the action of Learned Assessing Officer in making an addition of Rs.75,77,500/- by treating the cash deposit in banks as alleged undisclosed income, without considering the facts and circumstances of the case.*
3. *On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirmation the action of Learned Assessing Officer in making an addition of Rs.48,66,890/- by treating the credit card payments as alleged undisclosed income, without considering the facts and circumstances of the case.*
4. *On the facts and circumstances of the case as well as in law, the Learned CIT(A) has erred in confirmation the action of Learned Assessing Officer in not allowing the claim of deduction under chapter VI-A of Rs.4,77,022/- on the alleged plea that no documentary evidence was produced by the assessee, without considering the facts and circumstances of the case.”*

2. The assessee is an individual and is earning income from salary and business. The assessee filed the return of income for AY 2013-14 declaring a total income of Rs. 69,73,032/-. The case was selected for scrutiny under CASS and the statutory notices were duly served on the assessee. The AO issued notice under section 142(1) calling for various details on 16.07.2015, 14.10.2015, 05.01.2016 and 29.02.2016. However, the assessee did not respond to any of the notices. In the absence of any details such as bank statements, proof of investment under Chapter VIA and that the assessee failed to furnish any details, the AO proceeded to complete the assessment under section 144 of the Act in which he made additions towards cash deposits, credit card payment and deduction under Chapter VIA.

3. Aggrieved, the assessee has filed further appeal before the CIT(A). The CIT(A) had issued eight notices to the assessee from 2020 till 2023 which the assessee did not respond to. The CIT(A) therefore passed an ex-parte order without

going into the merits dismissing the appeal of the assessee. Aggrieved the assessee is in appeal before the Tribunal.

4. There is a delay in filing the appeal before the Tribunal and in this regard the ld. AR submitted that the assessee is not aware that the CIT(A) has passed the appellate order and that the order was not manually served on the assessee. The ld AR further submitted that the assessee is not well versed with the income tax proceedings and that the delay in filing the appeal before the Tribunal was unintentional. Accordingly the ld AR prayed that the delay may be condones.

5. The ld DR on the other hand vehemently opposed the condonation of delay stating that the assessee is a habitual defaulter and that the reasons for delay in filing the appeal before the Tribunal are not bonafide.

6. Having heard both the parties and perused the material on record, we are of the view that there is a reasonable and sufficient cause for the delay in filing the appeal before the Tribunal. Therefore following the Hon'ble Supreme Court decision in the case of Collector, Land Acquisition Vs. MST.Katiji & Ors., (167 ITR 471) (SC) we condone the delay in filing the appeal and admit the appeal for adjudication

7. On merits the ld. AR submitted that the assessee did not get any notices issued by the Revenue and that being a salaried employee is not aware of the procedure followed in e-assessment proceedings. The ld. AR further submitted that since the CIT(A) has dismissed the appeal without considering the issues on merits and that the AO has made the addition merely based on the materials available on record, the issues may be set-aside for fresh examination.

8. The Id. DR on the other argued that the assessee has received the assessment order and has filed appeal before the CIT(A) against the same. Therefore, the claim that the notices calling for details by the AO and the CIT(A) not being received does not have merit. Accordingly, the Id. DR prayed that the order of the lower authorities be upheld.

9. We have heard the parties and perused the material on record. Delay condoned. We noticed that the assessee has not responded to **four notices** issued by the AO and **eight notices** issued by the CIT(A). We also notice that the assessee is deriving income from Salaries and Business and that the AO has made the additions for the reason that the assessee has not filed any documents during the assessment proceedings such as bank statements, proof of investments and Form 16 etc. We further notice that the CIT(A) has passed the order dismissing the appeal *in limine* without going into the merits for the reason that the assessee failed to respond to various notices issued. The claim of the Id AR is that there is no intentional default on the part of the assessee and that assessee is not well versed with the income tax proceedings. Considering the facts of the present case in the interest of natural justice and fair play, we are inclined to give one last opportunity to the assessee to submit the required documents and present the case on merits before the lower authorities. Accordingly, we remit the appeal back to the AO for a *denovo* consideration of the various issues. Further, we also levy a cost of Rs. 5,000/- in the appeals since considerable time and efforts have been spent by the Exchequer and for the reason that the assessee being delinquent before the lower authorities. The assessee is directed to pay the said amount to Prime Minister Relief Fund within 30 days from the date of this order. The assessee is also

directed to appear before the AO without seeking any adjournments, file the necessary details as may be called for and co-operate with the assessment proceedings. It is ordered accordingly.

10. In the result, the appeal of the assessee is allowed for statistical purposes.

*Order pronounced in the open court on 06-02-2024.*

**Sd/-**  
**(RAHUL CHAUDHARY)**  
**Judicial Member**

*\*SK, Sr. PS*

**Sd/-**  
**(MS. PADMAVATHY S)**  
**Accountant Member**

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,  
(Dy./Asstt. Registrar)  
**ITAT, Mumbai**