

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

**ITA No.3834/Mum/2023
(Assessment Year :2013-14)**

Darshan Sangulkar 01, Shivaji Chowk Badiapurgaon Tal: Ambarnath Thane- 421 504	Kishor	Vs.	National Assessment Centre Delhi	Faceless	
PAN/GIR No.CFVPS6648G					
(Appellant)		..	(Respondent)		

Assessee by	Shri Tanzil Padvekar
Revenue by	Smt. Mahita Nair
Date of Hearing	05/03/2024
Date of Pronouncement	08/03/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 08/08/2023 passed by NFAC Delhi for the quantum of assessment passed u/s.147 / 144 for the A.Y.2013-14.

2. Before us ld. Counsel submitted that here in this case *ex parte* assessment order was passed u/s.144 on the ground that assessee had not responded to the e-mail sent by the ld. AO and accordingly, additional amount of unexplained investment of Rs.53,30,000/-

has been made and addition of unexplained cash deposits and undisclosed salary aggregating to Rs.26,96,764/- has been made. The Id. CIT (A) has dismissed the appeal after observing as under:-

“5.1 The submission of the appellant is perused The appellant filed the copy of the bank accounts, the copy of the registered sale agreement. However, there was no substantive explanation with regard to the cash deposit of Rs. 80,26,764/ Various notices were issued however there was no submission by the appellant to substantiate the cash deposit, other than the submission which were in form of the bank statement, the sale agreement. Accordingly, the cash deposit of Rs 8026764/remain unexplained. Therefore, the action of the AO in adding the cash deposit is sustained. The ground of appeal is dismissed.”

3. Before us, Ld. Counsel for the assessee has filed application under Rule 29 of ITAT Rules, alongwith various additional evidences running into 86 pages. The reasons stated by him in the petition reads as under:-

1. The Appellant is before this Hon'ble Court against the ex-parte Order passed by the National Faceless Assessment Centre (NFAC) dated 08/08/2023. Confirming the addition made by the Ld. Assessing Officer

2. The Appellant's case for A. Y 2013-14 was re-opened by the Ld. Assessing Officer under Section 147/148 of the Act stating that the Assessee has purchased immovable property of Rs. 53,30,000/- and has deposited cash of Rs. 25,43,000/-. Thereafter, several Notices under Section 142(1) of the Act were issued electronically. The Appellant was not aware about these proceedings as the Appellant did not received any Notices which prohibited the Assessee from filing replies and documents before the Ld. Assessing Officer. It is also submitted that the assessment proceedings were taking place at the time of Covid-19 pandemic. As no notices were received by the Appellant either physically or electronically as all the notices were sent on knsnj@yahoo.com Email id which does not belong to the Appellant, the replies could not be filed. The Ld. Assessing Officer passed the Assessment

Order in *ex-parte* manner under Section 144 without having any documents/ information before him, making addition of Rs. 80,26,764/-

3. Being aggrieved by the *ex-parte* Assessment Order. The Appellant filed appeal before the Commissioner of Income Tax (Appeals). The Ld. CIT (Appeals) issued Notices on **knsnj@yahoo.com** which were also not received by the Appellant. It may be noted that in Form No.35, the Appellant provided **darshans0206@gmail.com** Email id for communication. However, from the ITBA Portal, it is noticed that all the hearing notices were sent on **knsnj@yahoo.com** instead of Email id provided in Form No.35. The Ld. CIT (Appeals) dismissed the appeal filed by the Appeal filed by the Appellant vide the impugned Order dated 08/08/2023.

4. The Appellant did not get sufficient opportunity to produce the documents before the Ld. Assessing Officer and CIT (Appeals) are filing herewith relevant documents required for assessment which are hereunder:-

- a. Agreement to Sale dated 02/11/2012.
- b. Registered Sale Deed dated 14/02/2013.
- c. Bank account statement of Bank of Baroda.
- d. Bank account statement of Maharashtra Gramin Bank

4. He submitted that the said additional evidences should be admitted because the notices were sent on e-mail ID which was old e-mail in the year 2012-13 and the current proceedings have started during the covid period in the year 2020-21. The assessee was not aware of any such notices on the email sent by the ld. AO. Even before the ld. CIT (A), assessee had furnished the correct email ID for communication, however, all the notices in the ITBA portal was sent on old email ID. Thus, he requested that matter should be restored back to the file of the ld. AO to consider these additional evidences and decide the issue afresh after giving opportunity of hearing to the assessee.

5. Ld. DR did not have any objection if the matter is restored back to the file of the ld. AO.

6. On perusal of the material placed before us it is seen that the notices were sent by the National Faceless Assessment Centre on some old e-mail ID which assessee had not received and for this reason, ld. AO was constraint to pass the *exparte* order u/s.144. Even the ld. CIT (A) has not decided the issue on merits, because the notices were again sent on different e-mail ID. Accordingly, in the interest of justice, we remit all the issues raised before us alongwith petition for admission of additional evidences filed before us to the file of the ld. AO to decide the issue afresh and in accordance with law after giving due opportunity of hearing to the assessee. Ld. AO should also ensure that notices are sent on current e-mail ID provided by the assessee and assessee should also check the correct e-mail ID appearing in the ITBA portal. Accordingly, appeal of the assessee is allowed for statistical purposes.

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

Order pronounced on 8th March, 2024.

**Sd/-
(GAGAN GOYAL)
ACCOUNTANT MEMBER**

**Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER**

Mumbai; Dated 08/03/2024
KARUNA, sr.ps

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai