IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "D" Bench, Mumbai.

Before Justice (Rtd.) C.V. Bhadang (President) Shri B.R. Baskaran (AM)

I.T.A. No. 3737/Mum/2023 (A.Y. 2013-14)

Moneyplex Securities Pvt. Ltd. 4/B, JSS Road Shantiniwas Gazdar Street Chira Bazar Mumbai-400002. PAN : AAHCM9331N	Vs.	ITO, Ward-4(2)(4) Mumbai.
(Appellant)		(Respondent)

Assessee by	Ms. Aakriti Seth
Department by	Smt. Mahita Nair
Date of Hearing	18.03.2024
Date of Pronouncement	18.03.2024

O R D E R

Per B.R.Baskaran (AM) :-

The assessee has filed this appeal challenging the order dated 21.8.2023 passed by the learned CIT(A), National Faceless Appeal Centre, Delhi and it relates to A.Y. 2013-14. The assessee is aggrieved by the decision of the learned CIT(A) in dismissing the appeal of the assessee on the reasoning that the assessee did not respond to the notices issued by it.

2. The Learned AR submitted that the assessee had earlier engaged an aged chartered accountant and it was under the impression that he will duly attend to the appellate proceedings. However, it appears that the said chartered accountant did not respond to the notices send by Ld CIT(A), which has let to passing of impugned ex-parte order by the learned CIT(A) without adjudicating the issues on merits. Accordingly, she prayed that the issues urged on merits may be restored to his file for adjudicating them. The

Learned AR also submitted that the assessee has raised a legal issue in Ground No. 3 of the Grounds of appeal filed before the Tribunal. She submitted that the said legal ground goes to the root of the matter and hence the Tribunal may adjudicate the same.

3. The Learned DR, on the contrary, submitted that the explanations given by the assessee for not appearing before Ld CIT(A) is very vague and bald. She submitted that the assessee did not mention the name of the CA, even though entire blame was put on the C.A. Further, the legal ground raised by the assessee requires verification of certain factual aspects and accordingly submitted that the said ground cannot be adjudicated without bringing factual aspects on record.

4. We have heard the rival contentions and perused the record. From the order passed by the learned CIT(A), we noticed that the first appellate authority has issued five notices of hearing to the assessee, but none of them has been responded to. As submitted by learned DR, even though the assessee is putting blame on his chartered accountant, yet the same was not supported by any material. Even the name of the C A was also not mentioned. Accordingly, the explanation of the assessee for non-appearance before Ld CIT(A) is liable to be rejected.

5. At the same time, since the learned CIT(A) has passed the order ex-parte, without hearing the assessee, we are of the view that, in the interest of natural justice, the assessee may be provided with one more opportunity to present its case properly before the learned CIT(A). However, the same would be at a cost. Accordingly, we impose a cost of Rs. 5000/- (Rupees Five Thousand) upon the assessee and it shall be paid to the credit of the Income Tax Department within one month from the date of this order.

6. Subject to the payment of above cost, which fact shall be verified by the learned CIT(A), the impugned order passed by the learned CIT(A) is set aside and all the issues are restored to his file for adjudicating them afresh, after affording adequate opportunity of being heard to the assessee. The assessee is at liberty to raise any legal issue before Ld CIT(A) and we also direct the assessee to fully cooperate with the learned CIT(A) for expeditious completion of the appellate proceedings.

7. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced on 18.03.2024.

Sd/-	Sd/-
(Justice (Rtd.) C.V. Bhadang)	(B.R. Baskaran)
President	Accountant Member

Mumbai.; Dated : 18/03/2024

Copy of the Order forwarded to :

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

BY ORDER,

//True Copy//

(Assistant Registrar)
ITAT, Mumbai

PS