

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SMT RENU JAUHARI ACCOUNTANT MEMBER**

**ITA No. 4147/MUM/2023
(Assessment Year :2011-12)**

Ajay Malshi Dedhia 17/134, Motilal Nagar, SV Road, Goregaon (W), Mumbai - 400104	Vs.	ACIT 31(1) Kautilya Bhavan, BKC, Mumbai - 400051
PAN/GIR No. AACPD8829Q		
(Appellant)	..	(Respondent)

Assessee by	Shri Mandar Vaidya
Revenue by	Shri Manoj Kumar Sinha
Date of Hearing	18/04/2024
Date of Pronouncement	23/04/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 29/09/2023 passed by NFAC, Delhi for the quantum of assessment passed u/s.143(3) r.w.s. 147 for the A.Y.2011-12.

2. The first and foremost ground of assessee is that ld. CIT(A) has erred in passing *exparte* order without deciding the appeal on merits and dismissing the appeal on the ground of non-prosecution; and apart from that assessee has also challenged the addition of Rs.48,43,000/- made u/s.69A.

3. Before us ld. Counsel submitted that assessee had submitted part submissions before the ld. CIT(A) vide letter dated 27/09/2023 and requested further time to submit written submissions. However, the ld. CIT(A) without even considering the submissions had dismissed the appeal *ex parte* on the ground of non-prosecution. Thus, he submitted that in the interest of justice, matter should be restored back to the file of the ld. CIT(A) be decided afresh.

4. Ld. DR also does not have any objection if the matter is restored back to the file of the ld. CIT(A).

5. In view of the aforesaid facts that the appeal of the assessee has been dismissed *ex parte* on the ground that assessee has not filed any reply to notice of hearing dated 24/05/2023 and 22/09/2023. Ld. CIT(A) has incorporated following dates of hearing:-

Date of hearing notice	Time limit for furnishing written submission	Remarks
05/03/2020	12/03/2020	Adjournment requested
22/02/2021	09/03/2021	Adjournment requested
31/08/2021	15/09/2021	Adjournment requested
24/05/2023	30/05/2023	No reply
22/09/2023	27/09/2023	No reply

5. However, nowhere ld. CIT (A) has acknowledged that assessee had filed written submissions on 27/09/2023 bearing acknowledgment No.322157861270923. In the said submission assessee had requested for further time to submit further details. However, without acknowledging the said submissions, the ld. CIT(A) has dismissed the appeal for want of prosecution. Thus, in the interest of justice, we agree with the prayer of the ld. Counsel that matter should be restored back to the file of the ld. CIT(A) to decide the issue afresh after giving due opportunity of hearing to the assessee and assessee is also directed to comply with the notices sent from office of the NFAC. Accordingly, appeal of the assessee is allowed for statistical purposes.

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

Order pronounced on 23rd April, 2024.

Sd/-
(RENU JAUHARI)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai; Dated 23/04/2024
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