

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH: BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No.260/Bang/2024
Assessment Year: 2018-19

Mohammed Waseem No.195, 5 th Block, 1 st Stage HBR Layout Bangalore 560 043 PAN NO : AAUPW0919J	Vs.	ITO Ward-6(2)(1) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Shri Syed Ashfaq Ahmed Nadeem Lasani, A.R.
Respondent by	:	Shri V. Parithivel, D.R.

Date of Hearing	:	16.04.2024
Date of Pronouncement	:	17.04.2024

O R D E R

PER SOUNDARARAJAN K., JUDICIAL MEMBER:

This appeal by assessee is directed against order of NFAC, Delhi for the assessment year 2018-19, passed u/s 250 of the Income Tax, Act, 1961 (in short “The Act”) dated 22.1.2024.

2. Brief facts of the case are that the assessee Mr. Mohammed Waseem is the proprietor of M/s. S.A. Steel Traders dealing in purchase and sales of M.S. Scrap. The ld. AO has passed his orders u/s 143(3) r.w.s. 143(3A) & 143(3B) of the Act on 16.4.2021. As against the returned income of Rs.6,13,410/-, the ld. AO has assed the income at Rs.1,59,68,337/- making an addition of Rs.1,53,52,987/-. The addition is towards “Bogus Purchasers” to the extent of Rs.1,53,52,987/-. Against this, the assessee has filed an appeal before CIT(A). The ld. CIT(A) issued notice for hearing as follows:

Date of Notice	Date of compliance	Status
06.10.2023	11.10.2023	No compliance
03.01.2024	10.01.2024	No compliance
11.01.2024 (Final opportunity)	18.01.2024	No compliance

2.1 The assessee filed an adjournment petition on 10.1.2024 through e-mail addressed to the mail address of the department which was also acknowledged by the department. Thereafter, another notice was issued by the CIT(A) and directed the assessee to file written submissions electronically on or before 18.1.2024. On receipt of above said notice, the assessee again sought for an adjournment by filing a petition dated 17.1.2024, which was also sent by e-mail on 17.1.2024, which was duly acknowledged by the department. In spite of the adjournment petitions filed by the assessee, the Id. CIT(A) without considering the petitions had proceeded to decide the issue ex-parte and finally dismissed the appeal of the assessee.

2.1 Before us, the assessee also filed a paper book enclosing the adjournment petitions and the acknowledgements downloaded from the portal of the department and contended that the ex-parte order of the Id. CIT(A) is not sustainable and prayed to grant one more opportunity of hearing before the Id. CIT(A).

3. We have heard the rival submissions and perused the materials available on record. As seen from the paper book filed by the assessee, it is a fact that the assessee had filed two adjournment petitions which were also acknowledged by the revenue but in spite of that without considering the adjournment petitions dated 10th & 17th January, 2024, and without communicating anything about the adjournment petitions filed by the assessee, the Id. CIT(A) has decided the issue ex-parte on merits. Against this assessee is in appeal before us. We find that, prima facie the ex-parte order passed by the Id. CIT(A) is erroneous since he has not considered the

adjournment petitions dated 10th & 17th Jan'24 and therefore the observation that the assessee had not responded to the notices are not correct and therefore, the order of the Id. CIT(A) is liable to be set aside on the sole ground that the Id. CIT(A) has not considered the adjournment petitions filed by the assessee through e-mail. Therefore, in the interest of justice, we set aside the order of Id. CIT(A) and remit the matter to his file to decide the matter afresh after giving an opportunity of being heard to the assessee. The assessee is also directed to cooperate with the department by furnishing necessary details in support of it's claim. Accordingly, the issue in dispute is remitted to the file of Id. CIT(A) for de-novo consideration.

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

Order pronounced in the open court on 17th Apr, 2024

Sd/-
(Chandra Poojari)
Accountant Member

Sd/-
(Soundararajan K.)
Judicial Member

Bangalore,
Dated 17th Apr, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.