

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: "B", NEW DELHI**

**BEFORE SHRI M BALAGANESH, ACCOUNTANT MEMBER
&
MS. MADHUMITA ROY, JUDICIAL MEMBER**

**ITA No.- 3101/Del/2023
(Assessment Year: 2017-18)**

Darshan Arora, New Delhi.	Vs.	Income Tax Officer, Ward 49(3), New Delhi.
PAN No: AMMPA3182H		
APPELLANT		RESPONDENT

Assessee by : Shri Mohit Soni, CA.
Revenue by : Shri Vivek Kumar Upadhyay, Sr. DR

Date of Hearing : 23.04.2024.
Date of Pronouncement : 25.04.2024.

ORDER

PER: MADHUMITA ROY, JM

The instant appeal filed at the behest of the assessee is directed against the order dated 29.03.2019 passed by the National Faceless Appeal Centre (NFAC), arising out of the order dated 24.12.2019 passed by the ITO, Ward -49 (3), Delhi under section 144 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for Assessment Year 2017-18.

2. At the time of hearing of the instant appeal, the Ld. Counsel appearing for the appellant submitted before us that the order impugned is practically an ex parte one. It is also fact, that though several opportunities were given to the appellant by the First Appellate Authority but the appellant was unable to appear to before it to represent his case. In that view of the matter, he has prayed for an opportunity to represent his case further before the First Appellate Authority for the ends of justice. Such prayer made by the Learned Counsel appearing for the appellant has not been controverted by the Learned DR with all his fairness.

3. Having heard the Learned Counsel appearing for the parties, having regard to the facts and circumstances of the case, we find that though several opportunities were given by the NFAC, the appellant for some reason or the other was not been able to appear on the dates so fixed by the said authority for hearing. As a result whereof, having no other alternative the NFAC has passed order ex parte under section 144 of the Act. Otherwise also, we find that such order has not been passed on merit in terms of the statutory provision laid down under section 250(6) of the Act. In that view of the matter, y in order to prevent the miscarriage of justice a further opportunity be given to the assessee to the present his case before the first appellate authority in its proper perspective. In that view of the matter we with the aforesaid observation quashed the order impugned and setting aside the issue to the file of the National faceless appeal centre (NFAC) Delhi for fresh adjudication of the same. The said authority is hereby directed to pass a reasoned

order upon giving an opportunity of being heard to the assessee and upon considering the evidence already on record or any other evidence which the appellant may choose to file at the time of hearing of the matter. We also make it clear that in the event if the appellant does not cooperate with the appellate authority, the said authority would be at liberty to finalise the issue strictly in accordance with law.

4. The assessee's appeal is therefore allowed for statistical purposes.

Order pronounced in the open court on 25.04.2024.

sd/-

[M. BALAGANESH]
ACCOUNTANT MEMBER

sd/-

[MADHUMITA ROY]
JUDICIAL MEMBER

Dated: 25.04.2024
*Pooja, Sr. Private Secretary

Copy forwarded to:

1. Appellant
2. Respondent
3. CITi
4. CIT(A)
5. DR

Asst. Registrar
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
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Date on which file goes to the Head Clerk.	
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