

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

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

**ITA No.4362/Mum/2023
(Assessment Year :2017-18)**

The Aertrip 701/7 th Floor Prarthana Height Dr. RK Shirodhkar Marg, Nr. ITC Hotel Parel, Mumbai-400 001	Vs.	Income Tax Officer Ward 17(1)(1) Mumbai
PAN/GIR No.AAVFA3351M		
(Appellant)	..	(Respondent)

Assessee by	Shri A.L. Sharma
Revenue by	Shri Manoj Kumar Sinha
Date of Hearing	24/04/2024
Date of Pronouncement	30/04/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 04/10/2022 passed by NFAC Delhi for the quantum of assessment passed u/s.144 for A.Y.2017-18.

2. In the grounds of appeal assessee has raised following grounds:-

“1.(a) Learned Commissioner of Income Tax (Appeals) Erred in passing the order ex parte & dismissing appeal on 04-10-2023 though Notice of hearing given fixing the date of hearing on 09-10-2023.

(b) Ld Commissioner of Income Tax (Appeal) erred in violating principles of natural justice in as much in spite of fixing the hearing on 09-10-2023 passed order ex parte on 04-10-2023.

(c) The appellant humbly submit that Id.CIT(A) ought to have given proper opportunity of hearing.

2. Learned Commission of Income Tax(Appeals) erred in confirming addition of Rs. 1,09,35,100/- on account of cash deposit.

3. Learned Commissioner of Income Tax (Appeals) erred is disallowing expenses of Rs.5,00,000/-

3. At the outset it is noted that, even before the ld. AO that assessee had not made any compliance to the various notices sent by e-mail on jainassociate@yahoo.co.in. The ld. AO without any response from the assessee treated the cash deposits of Rs.1,09,35,100/- u/s.69A in the bank account as unexplained. Before the ld. CIT (A) also various notices of hearing were fixed and except for genuine request dated 28/07/2023 there has been no compliance on part of the assessee. The ld. Counsel before us has stated that last date of notice when assessee has sought for adjournment, the same was adjourned to 09/10/2023, however, ld. CIT (A) has passed the order on 04/10/2023. He thus, requested that matter should be restored back to the file of the ld. CIT(A) to decide afresh.

4. On the other hand ld. DR submitted that the assessee had nowhere responded before the ld.AO which is evident from the notices sent on various dates as mentioned in page 2 & 3 of the assessment order including the final show-cause notice. Thus, assessee has not given any explanation regarding the cash deposits. In any case he submitted that if the issue is to be set aside then it should be set aside to the file of the ld. AO so that he can enquire about the explanations and evidences filed by the assessee.

5. After considering the orders of the ld. AO and ld. CIT(A), we find that assessee has made no compliance to any of the notices sent, which ld. Counsel submitted that notices were sent through e-mail of the Chartered Accountant and assessee was not aware of the proceedings date. Hence, left with no option both ld. AO and ld. CIT(A) have passed *exparte* order. Accordingly, in the interest of justice, we restore this issue to the file of the ld. AO. However at the time of hearing we announced that we will impose cost on the assessee for not making any compliance and wasting the time and efforts of the department. Accordingly, we impose the cost of Rs.10,000/- on the assessee for non-complying with the notices and not assisting the authorities below for proper assessment. Accordingly, we set aside the case to the file of the ld. AO to decide the issue of cash deposits afresh on the grounds raised before us, subject to deposit of cost of Rs.10,000/-. 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 30th April, 2024.

Sd/-
(RENU JAUHRI)
ACCOUNTANT MEMBER

Mumbai; Dated 30/04/2024
KARUNA, *sr.ps*

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

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