

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI**

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER

**ITA NO.4323/MUM/2023
Assessment Year 2020-21**

Galary Trading Pvt. Ltd.,
503, Grace Building, Western
Express Highway, Borivali East,
Mumbai – 400 006
PAN:AADCG-3635-R

- Appellant

Vs.

ACIT-CC-3(2), Mumbai,
Air India Building, 19th Floor,
Nariman Point,
Mumbai 400 021.

- Respondent

Appellant by : Shri Prateek Jain
Respondent by : Shri Suni Mathews

Date of Hearing : 29/04/2024
Date of Pronouncement : 29/04/2024

ORDER

The assessee has filed this appeal challenging the order dated 04/10/2023 passed by ld. CIT(A)-51,Mumbai and it relates to the assessment year 2020-21.

2. I notice that the Ld.CIT(A) has passed ex-parte order dismissing the appeal of the assessee for the reason that the assessee did not respond to various notices issued by him and further presuming that the assessee is not interested in prosecuting the appeal. Aggrieved, the assessee has filed this appeal the Tribunal.

3. The ld.A.R submitted that the Assessing Officer has made addition of estimated commission income on the presumption that the business activities carried out by the assessee are not genuine. In that regard, the Assessing Officer has also rejected the books of account of the assessee. The ld.A.R submitted that the assessee could not appear before ld.CIT(A) for

the reasons beyond its control and further, the Ld CIT(A) has also not adjudicated the appeal on merits. Accordingly, he prayed that the matter may be restored to the file of ld.CIT(A) for examination of all the issues afresh.

4. I have heard ld. Departmental Representative and perused the record. I notice that the ld.CIT(A) has given several notices to the assessee, but the assessee has failed to respond the notices. Hence, the ld.CIT(A) has proceeded to dismiss the appeal without adjudicating the issues contested on merits. Since the assessee did not get opportunity of hearing and since the ld.CIT(A) has also not adjudicated the grounds on merits, in the interest of justice, I am of the view that the assessee may be provided with one more opportunity to present its case properly before the ld.CIT(A). However, considering the conduct of the assessee, I am of the view that the assessee should be imposed cost in order to make it serious about income tax proceedings. Accordingly, I impose a cost of Rs.2,000/- (Rupees two thousand) upon the assessee, which shall be paid to the credit of Income Tax Department within two months from the date of receipt of this order. Subject to the payment of above cost, which shall be verified by the ld.CIT(A) at the time of hearing, I set aside the order passed by Ld CIT(A) and restore all the issues to his file for adjudicating them on merits. I also direct the assessee to fully co-operate with ld.CIT(A) for expeditious disposal of the appeal.

5. In the result, appeal filed by the assessee is treated as allowed for statistical purpose.

Order pronounced in the open court on 29th April, 2024.

Sd/-

(B.R. Baskaran)
Accountant Member

Mumbai, Date : 29th April, 2024

VM.

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The PCIT/CIT concerned
- 4) The D.R, "SMC" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai