

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER  
AND  
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.4120/M/2023  
Assessment Year: 2017-18**

M/s. Sunshine Planet Realty LLP, 5, 1 <sup>st</sup> Floor, Sharda Sadan, Swami Gyanjivandas Marg, Dadar East, Mumbai - 400 014 <b>PAN: ACGFS8890J</b>	Vs.	Income Tax Officer, Ward 20(3)(4), Presently ITO-20(3)(1), Room No.622, Piramal Chambers, Dr. SS Rao Marg, Parel, Mumbai - 400 051
(Appellant)		(Respondent)

**Present for:**

Assessee by : None

Revenue by : Shri Manoj Kumar Singh, Sr. A.R.

Date of Hearing : 25 . 04. 2024

Date of Pronouncement : 30.04.2024

**O R D E R**

**Per : Narender Kumar Choudhry, Judicial Member:**

This appeal has been preferred by the assessee against the order dated 21.08.2023, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2017-18.

**2.** At the outset, we observe that the Assessing Officer (AO), vide order dated 24.12.2019 under section 143(3) of the Act, made various disallowances under section 40(a)(ia) of the Act amounting to Rs.37,03,841/- in total, against which the assessee has preferred first appeal before the Ld. Commissioner, who though afforded various opportunities to the assessee, however, the assessee

neither filed any written submissions nor sought any adjournment and therefore the Ld. Commissioner in the constrained circumstances, assumed that the assessee is not interested in prosecuting the present appeal and consequently in absence of any rebuttal of the assessment order, he consequently confirmed the assessment order and accordingly dismissed the appeal of the assessee.

**3.** The assessee, being aggrieved, is in appeal before us. In spite of sending notice for the date of hearing today, the assessee neither appeared nor filed any adjournment application, therefore, in the constrained circumstances, we are inclined to decide this appeal by perusing the orders passed by the authorities below and hearing the Ld. D.R., who vehemently supported the orders passed by the authorities below and claimed that the impugned order does not suffer from any perversity, impropriety and/or illegality, hence, the appeal filed by the assessee may be dismissed in limine.

**4.** We observe that prima-facie there seems to be laches on the part of the assessee, as in spite of sending notices, the assessee neither appeared before the Ld. Commissioner and also not acted diligently. Before us also remained absent and therefore we are inclined not to take lenient view. However, considering the peculiar facts and circumstances of the case in totality, as the Ld. Commissioner decided the appeal of the assessee in limine but not on merits of the case and therefore for the just decision of the case and for substantial justice, we are inclined to remand the instant case to the file of the Ld. Commissioner for decision afresh, suffice to say by affording reasonable opportunity to the assessee to substantiate its case.

We also direct the assessee to cooperate with the appellate proceedings and file the relevant documents/information/reply which would be essential and to be needed by the Ld. Commissioner for proper adjudication of the assessee. We clarify that in case of further default, the assessee shall not be entitled for any leniency. The case is remanded accordingly.

**5.** In the result, the appeal filed by the assessee stands allowed for statistical purposes.

**Order pronounced in the open court on 30.04.2024.**

**Sd/-  
(RATNESH NANDAN SAHAY)  
ACCOUNTANT MEMBER**

**Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER**

Mumbai, Dated: 30.04.2024.

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.