

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI R.K. PANDA, VICE PRESIDENT AND
SHRI V. DURGA RAO, JUDICIAL MEMBER

ITA no.120/Nag./2023
(Assessment Year : 2016-17)

Sheikh Najmuddin Sheikh
Mohammed Bhai Fidvi
Sultan Ali, S.K. Fida Ali Complex Appellant
Loha Oli, Itwari 440 008
PAN – AAVPK0858P

v/s

Asstt. Commissioner of Income Tax
Circle-5 / Dy. Commissioner of Income Tax Respondent
Circle-4, Nagpur

Assessee by : Shri Naresh Jakhotai
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 01/05/2024

Date of Order – 01/05/2024

ORDER

PER V. DURGA RAO, J.M.

The present appeal has been filed by the assessee challenging the impugned order dated 22/02/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, ("*the learned CIT(A)*"), for the assessment year 2016-17.

2. When this appeal is taken up for hearing, the learned Counsel for the assessee submitted that the learned CIT(A) passed an ex-parte

order and prayed that one more opportunity may be given to the assessee to substantiate its case before the learned CIT(A).

3. On the other hand, the learned D.R. submitted that the learned CIT(A) has given sufficient opportunities inspite of that the assessee has not appeared before the learned CIT(A) and not filed relevant details. He strongly supported the orders passed by the learned CIT(A).

4. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. We find that though the learned CIT(A) gave opportunities to the assessee, ultimately, the order passed by him is an ex-parte order. Therefore, we are of the opinion that by following the principles of natural justice, one more opportunity should be given to the assessee to substantiate his case before the learned CIT(A). In view of the above, the order passed by the learned CIT(A) is set aside and remit the matter to the file of the learned CIT(A) and direct him to adjudicate the matter afresh after providing reasonable opportunity of being heard to the assessee. It is also directed that the assessee should not seek adjournment without there being a justified reason. Accordingly, all the grounds raised by the assessee in this appeal are allowed for statistical purposes.

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

Order pronounced in the open Court on 01/05/2024.

Sd/-
R.K. PANDA
VICE PRESIDENT

NAGPUR, DATED: 01/05/2024

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

Copy of the order forwarded to:

- 1
- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur