

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT
AND SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No.511/Bang/2024
Assessment Years : 2017-18

Nagarajareddy Vishwanatha, 821, 2 nd D Cross, 1 st Block, HRBR Layout, Bengaluru-560 043. PAN – AAAAC 4156 C	Vs.	The Asst. Commissioner of Income Tax, Circle-1(2)(2), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Smt. Prathibha R, Advocate
Revenue by	:	Shri Subramanian S, JCIT (DR)

Date of hearing	:	06.05.2024
Date of Pronouncement	:	14.05.2024

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee against the order passed by the NFAC, New Delhi dated 19/01/2024 in DIN No. ITBA/NFAC/S/250/2023-24/1059944902(1) for the assessment year 2017-18.

2. In the present case, the Id. CIT(A) has issued 3 notices intimating the date of hearing but there was no compliance from the assessee. Therefore, the Id. CIT(A) concluded that the assessee is not serious in pursuing the appeal and thus, upheld the order of the AO.

3. In the appeal filed before us, it was contended by the Id. AR that out of 3 notices issued by the Id. CIT(A), 2 notices were issued during the COVID period. As such, no fault can be attributed to the assessee on account of non-response to the notices issued during COVID period. The Id. AR further submitted that the Id. CIT(A) has effectively issued only one notice, which was not admittedly complied by the assessee but the Id. CIT(A) in the interest of justice and fair play, should have also issued one more notice giving final opportunity to the assessee before deciding the issue against the assessee. As such, the Id. AR before us, prayed to restore the issue to the file of the CIT(A) *for fresh adjudication as per the provisions of law.

4. On the other hand, the Id. DR did not raise any objections if the matter is set aside to the file of Id. CIT(A) for fresh adjudication as per the provision of law.

5. Heard the rival contentions of both the parties and perused the materials available on record. In our considered view, notices issued during the COVID period dated 16/03/2020 and 25/12/2020 cannot be a reason for disposal/ dismissing the appeal of the assessee ex-parte. As such, no fault can be attributed to the assessee for non compliance of such notices. Thus, we agree with the contention of the Id. AR that effectively only one opportunity was granted to the assessee to raise his contention, which is against the principles of natural justice. Accordingly, in the interest of justice and fair play, we are inclined to restore this issue to the file of the Id. CIT(A) for fresh adjudication as per the provisions of law after giving opportunity to the assessee. The assessee is also directed to co-operate during the proceedings before the Id. CIT-A. Hence, ground of appeal raised by the assessee is allowed for the statistical purposes.

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

Order pronounced in court on 14th day of May, 2024

Sd/-

(GEORGE GEORGE K)

Vice President

Bangalore,

Dated, 14th May, 2024

/ vms /

Sd/-

(WASEEM AHMED)

Accountant Member

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore