

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

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER**

**AND**

**SHRI SANDEEP SINGH KARHAIL, HON'BLE JUDICIAL MEMBER**

**ITA NO. 4652/MUM/2023 (A.Y: 2015-16)**

<b>M/s. A.K. Munshi Yojana</b> C/o Nanubhai Desai & Co. 517 Sir Vithaldas chambers 16, Mumbai Samachar Marg Mumbai – 400001  <b>PAN: AAATA0904D</b> <b>(Appellant)</b>	v.	<b>Income Tax Officer – (Exemption) – 1(1)</b> MTNL Building, Podar Road  <b>(Respondent)</b>
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<b>Assessee Represented by</b>	<b>:</b>	<b>Shri Nitesh Joshi</b>
<b>Department Represented by</b>	<b>:</b>	<b>Shri Manoj Kumar Sinha</b>
<b>Date of conclusion of Hearing</b>	<b>:</b>	<b>13.05.2024</b>
<b>Date of Pronouncement</b>	<b>:</b>	<b>15.05.2024</b>

**ORDER**

**PER NARENDRA KUMAR BILLAIYA (AM)**

1. This appeal by the assessee is preferred against the order dated 25.10.2023 by National Faceless Appeal Centre, Delhi [hereinafter in short "Ld. CIT(A)"] pertaining to A.Y.2015-16.

**2.** The sum and substance of the grievance of the assessee is that the Ld. CIT(A) dismissed the appeal of the assessee for non-prosecution and in limine.

**3.** Having heard rival contentions, we have carefully perused the order of the Ld. CIT(A). We find that Ld. CIT(A) had issued notices to the assessee through ITBA portal. However, on receiving no compliance drawing support from the decision of the Hon'ble Supreme Court in the case of B.N. Bhattacharjee and another [118 ITR 461], Ld. CIT(A) dismissed the appeal.

**4.** We are of the considered view that Ld. CIT(A) ought to have decided the appeal on merits of the case and after affording a reasonable and adequate opportunity of being heard to the assessee. Notice sent through ITBA Portal would not amount to service of notice as the assessee cannot be expected to visit its ITBA portal every day.

**5.** Before us, counsel sought permission to file additional evidences stating that these evidences go to the root of the matter and could not have been filed during the assessment proceedings.

6. In the interest of justice and fair play, we deem it fit to restore the entire issue before the Assessing Officer. The Assessing Officer is directed to decide the issue afresh after affording a reasonable and adequate opportunity of being heard to the assessee and the assessee is directed to avail the opportunity given to it.

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

Order pronounced in the open court on 15<sup>th</sup> May, 2024.

**Sd/-**  
**(SANDEEP SINGH KARHAIL)**  
**JUDICIAL MEMBER**

Mumbai / Dated 15.05.2024  
Giridhar, Sr.PS

**Sd/-**  
**(NARENDRA KUMAR BILLAIYA)**  
**ACCOUNTANT 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, Mum**