

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

**SHRI AMARJIT SINGH, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 390/MUM/2024  
(Assessment Year: 2017-18)**

**PGA Constructions Private Limited,**  
C-3, S-16, Sector-14, M.G. Complex,  
Vashi Navi, Mumbai - 400703  
[PAN: AALCS2017H]

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**Appellant**

**Income Tax Officer-**  
**Ward-15(2)(4), Mumbai,**  
Room No. 360, 3<sup>rd</sup> Floor,  
Aaykar Bhavan, Maharishi Karve Road,  
Mumbai - 400020

Vs

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**Respondent**

**Appearance**

For the Appellant/Assessee : None  
For the Respondent/Department : Shri H.M. Bhatt

**Date**

Conclusion of hearing : 14.05.2024  
Pronouncement of order : 27.05.2024

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. By way of the present appeal the Assessee has challenged the order, dated 29/11/2023, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as 'the CIT(A)'] for the Assessment Year 2017-18, whereby the Ld. CIT(A) had dismissed the appeal of the Assessee against the Assessment Order, dated 20/12/2019, passed under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

2. The Appellant has raised the following grounds of appeal:

**"1. FIRST GROUND OF APPEAL:**

- 1.1. *The Learned Commissioner of Income Tax (Appeals) (hereinafter referred to as (CIT(A)) has erred in confirming the order of Assessing Officer (AO) by dismissing the appeal filed, by confirming the addition of Rs. 66,00,000/- without considering the facts.*
  - 1.2. *The Learned CIT (A) had issued two notices, one on 20 October 2023 and the second one on 08 November 2023. The appellant was busy with Income-tax return work during the month of October 2023 and when the notice was issued in the month of November, 2023, the accountant looking after the matter was travelling and hence, the appellant was unable to file any response to the said notices. The learned CIT(A), despite knowing the fact that most of the professionals/accountants would be busy during October month to finish the IT compliances of their clients issued a notice during that time.*
  - 1.3. *The learned CIT(A) has erred in deciding that the assessee has failed miserably in discharging the primary onus by just providing an opportunity of hearing only two times.*
  - 1.4. *The learned CIT(A) failed to appreciate the fact that the two individuals from whom the loan has been taken are the shareholders of the Company and the Company from whom the loan has been taken is a group company."*
3. The relevant facts in brief are that the assessment for the Assessment Year 2017-18 was framed on the Appellant-Company vide Assessment Order, dated 20/12/2019, passed under Section 143(3) of the Act at assessed income of INR 66,00,000/- after making an addition of INR 66,00,000/- under Section 68 of the Act to the 'Nil' income returned by the Appellant.
4. Being aggrieved, the Appellant challenged the aforesaid addition in appeal before CIT(A). Vide order, dated 29/11/2023, the CIT(A) dismissed the appeal observing that the Appellant had failed to furnish documents in support of the contentions,

despite having been granted reasonable opportunity of being heard.

5. Against the above dismissal order passed by the CIT(A), the Appellant has preferred the present appeal before the Tribunal.
6. When the appeal was taken up for hearing, none was present on behalf of the Appellant. We have heard the Ld. Departmental Representative and perused the material on record.
7. On perusal of grounds raised, we find that the Appellant is aggrieved by the fact that the appeal was dismissed by the CIT(A) without granting the Appellant sufficient opportunity of being heard. In Ground No. 1.2, it has been contended that during the month of October 2023 and November 2023, the tax professional representing the Appellant before the CIT(A) was travelling and was tied up in work relating to filling of income tax return. Therefore the hearings could not be attended. We note that in total 3 notices were issued by the CIT(A). Notice dated 29/12/2020 was replied to on behalf of the Appellant on 13/01/2021. Thereafter, second notice, dated 20/10/2023, was issued by the CIT(A) fixing the date of hearing on 26/10/2023, which was followed by the third another notice, dated 08/11/2023, fixing the date of hearing on 16/11/2023. The second and third notices were not responded to the Appellant and therefore, the CIT(A) dismissed the appeal. We find that the last two notices were issued over a period of around 20 days. Therefore, we find merit in the contention of the Appellant and hold that in the facts and circumstances of the present case the CIT(A) failed to grant reasonable opportunity of being heard to the Appellant. Accordingly, we deem it appropriate to set aside the order, dated 29/11/2023, passed by the CIT(A) and restore the issue back to the file of CIT(A) with the directions to

adjudicate the grounds raised in appeal before CIT(A) afresh as per law after granting the Appellant a reasonable opportunity of being heard. In terms of the aforesaid, Ground No. 1.2 and 1.3 raised by the Appellant are allowed while Ground No. 1.1 and 1.4 are dismissed as being infructuous.

8. In terms of the aforesaid, the present appeal preferred by the Assessee is allowed for statistical purposes.

Order pronounced on 27.05.2024.

**Sd/-**  
**(Amarjit Singh)**  
**Accountant Member**

**Sd/-**  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated : 27.05.2024  
Alindra, PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT,  
Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai