

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"A" BENCH, MUMBAI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER AND**

**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA no.635/Mum./2024**  
**(Assessment Year : 2017-18)**

**Anil Roshanlal Bafna**

M/s. Swarna Ganga Jewellers  
Shop No. 8/9, Goodwill Arcade,  
Plot No.5, Sector-10, Near Nerul  
Rly Station, Nerul (East),  
Navi Mumbai-400706  
PAN – AICPB4215C

..... Appellant

v/s

**ACIT-27(1)**

Room No.415, 4<sup>th</sup> Floor,  
Vashi Railway Complex, Vashi  
Navi Mumbai-400703

..... Respondent

Assessee by : Shri V. D. Parmar  
Revenue by : Shri Sunny Kachwaha

Date of Hearing – 29/05/2024

Date of Order – 05/06/2024

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The present appeal has been filed by the assessee challenging the impugned order dated 15/12/2023 passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [*"learned CIT(A)"*], for the assessment year 2017-18.

2. In this appeal, the assessee has raised the following grounds:-

1. *On facts and circumstances of the case and in law Ld. CIT(A) erred in dismissing the appeal*

2. *On facts and circumstances of the case and in law Ld CIT(A) erred in dismissing appeal as the order passed by Ld CIT(A) is not in accordance with the mandate of section 250 of the I T Act as CIT(A) cannot dismiss appeal on account of non-prosecution of appeal by assessee. Reliance is placed on decision of CIT vs Premkumar Arjundas Luthra (HUF) 69 taxmann.com 407 Bom.*

3. *On facts and circumstances of the case and in law Ld CIT(A) erred in passing ex-parte without giving adequate opportunity of being heard to appellent.*

4. *Without prejudice to other grounds of appeal,*

(i) *On facts and circumstances of the case and in law Ld CIT(A) erred in dismissing appeal without considering merits of addition of Rs 96,50,000/-.*

(ii) *On facts and circumstances of the case and in law Ld CIT(A) erred in confirming addition us 69A of Rs 96,50,000/- as unexplained cash deposits as such cash deposits represent cash sale proceeds of ornaments and are duly recorded in books of accounts.The entire such cash sale is supported to proper sale bills.*

5. *On facts and circumstances of the case and in law Ld CIT(A) erred in passing ex-parte without considering merits of reopening of case us 147 and issue of notice us 148 of the I T Act 1961 as same were not reopened/issued in accordance with the law.*

6. *The appellent craves leave to consider each of the above ground of appeal as independent and without prejudice to each other and craves leave to add, alter, modify or delete an or all grounds of appeal."*

3. We have considered the submissions of both sides and perused the material available on record. In the present case, at the outset, it is evident that the learned CIT(A) has passed the order ex-parte due to the non-appearance of/on behalf of the assessee. Now in appeal before us, the assessee is duly represented by the learned AR and wishes to pursue the litigation against the addition made by the AO. In view of the above, we are of the considered opinion that in the interest of justice, the assessee be granted one more opportunity to represent its case on merits before the learned CIT(A). We further find that the learned CIT(A) merely on the basis of non-compliance of notices, dismissed the appeal filed by the assessee without

adjudicating the grounds raised by the assessee on merits, as required under section 250(6) of the Act. Consequently, we deem it fit and proper to set aside the impugned order and restore the matter to the file of the learned CIT(A) for *de novo* adjudication of the appeal on merits after consideration of all the details/submissions as may be filed by the assessee. Needless to mention no order shall be passed without affording reasonable opportunity of hearing to the parties. The assessee is directed to appear before the learned CIT(A) on all the dates of hearing as may be fixed without any default. As the matter is being restored to the file of the learned CIT(A) for adjudication on merits, the other grievances raised by the assessee in the present appeal do not call for adjudication at this stage. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 05/06/2024

**Sd/-**  
**NARENDRA KUMAR BILLAIYA**  
**ACCOUNTANT MEMBER**

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

**MUMBAI, DATED: 05/06/2024**

Vijay Pal Singh, (Sr. PS)

Copy of the order forwarded to:

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

By Order

Assistant Registrar  
ITAT, Mumbai