

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH
MUMBAI**

**BEFORE: SHRI PRASHANT MAHARISHI, ACCOUNTANT
MEMBER**

&

SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER

**ITA No. 3797/MUM/2023
(Assessment Year : 2017-18)**

Rahul Gangaram Kanagandula 203, Vikas Darshan, Shankar Puppala Road, 12 th Lane Nagpada, Mumbai-400008	Vs.	Income Tax Officer, Ward-20(3)(1), Room no. 622, 6 th Floor, Piramal Chamber, Lal Baug, Parel, Mumbai-400012
PAN/GIR No. ALEPK1983F		
(Appellant)	..	(Respondent)

Assessee by	Shri. Shivendra Gupta
Revenue by	Smt. Mahita Nair (SR.DR.)
Date of Hearing	15/05/2024
Date of Pronouncement	12/06/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 21.08.2023 passed in Appeal no. CIT(A) 32, Mumbai/10808/2019-20 by the Ld. Commissioner of Income-tax(Appeals), National Faceless Appeal Centre(NFAC) [hereinafter referred to as the "CIT(A)"] u/s.

250 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for the relevant Assessment year [A.Y.] 2017-18, wherein learned CIT(A) has dismissed assessee’s appeal ex-parte against assessment order dated 24.12.2019.

2. The brief fact related to the appeal state that assessee is an individual and engaged in the business of import of used cranes and hiring it to the parties at high seas. Assessee e-filed return of income on 27.03.2018 declaring total income of Rs. 37,57,960/-. Subsequently, the revised return of income was filed on 23.02.2019, declaring total income of Rs. 9,25,960/-. The said return was processed u/s. 143(1) of the Act. The case was selected for scrutiny under CASS. Statutory notices u/s. 143(2) and section 142(1) of the Act were issued and served upon the assessee. The appellant assessee was asked to explain discrepancies in the books of assessee and data/income shown in the ITR. Subsequently, after issue of notice for addition, assessee filed his response through e-proceedings on the ITBA portal and explained that such discrepancies were due to fault of new office assistant clerk. Assessee further explained that assessee’s claim that he has worked out tax for Rs. 1,03,000/- but his assistant, wrongly typed one

extra zero while making the payment and the Self Assessment Tax of Rs. 10,30,000/- had been wrongly paid. The Assessing Officer assessed the turnover of the assessee for the A.Y. 2017-18 as Rs. 34,72,89,599/- as against Rs. 1,15,66,582/- claimed by the assessee in revised return and took the profit @8% of Rs. 34,72,89,599/- as Rs. 2,77,83,168/- as income from business and profession of the assessee for A.Y. 2017-18. Aggrieved by the assessment order, assessee preferred an appeal before learned CIT(A), who upheld the assessment and dismissed assessee's appeal.

3. The appellant assessee has approached this tribunal on the following grounds:

"1.The order of the learned Assessing Officer, in the facts and circumstances of the case, is not justifiable both on facts and in law.

2.The Ld. CIT(A) erred in not giving sufficient opportunity to the assessee before deciding the appeal.

3.The Ld. CIT(A) ought to have seen that the turnover considered by the AO for estimating the income is not correct.

4.The Ld. CIT(A) ought to have ensured that the notices for hearing was properly served before concluding that the assessee not responded to the notices....."

4. In response to the notice issued by the tribunal, learned DR appeared and participated in the proceedings.

5. We have perused the records and heard learned representatives for both the parties.

6. Learned representative for the assessee has submitted that learned CIT(A) has passed ex-parte order in violation of the principles of natural justice without affording sufficient opportunity of hearing to assessee. Further stating that learned CIT(A) has wrongly confirmed the addition made by the Assessing Officer. Prayed to set aside the impugned order.
7. Learned DR has supported the impugned order.
8. It appears from the perusal record that the assessee did not respond to the notices issued by learned CIT(A) after filing the appeal. learned CIT(A) has dismissed assessee's appeal ex-parte without reasoned decision on merit. However, in the interest of justice and fair play, we find it appropriate to remit the matter back to the file of learned CIT(A) for denovo adjudication on merit. We further direct the assessee to be diligent and cooperative in attending the hearings and making submissions before the first appellate authority for the expeditious and effective disposal of the appeal. Assessee should refrain from seeking any adjournment but for compelling and unavoidable reasons. Needless to say that learned CIT(A) shall ensure the observance of the principles of natural justice. It is made clear that we have not made any observation on the merits of the case.

9. In the result, the appeal is allowed. The impugned order dated 21.08.2023 is set aside. The appeal is restored back to the file of the learned CIT(A) for statistical purposes.

Order pronounced on 12.06.2024.

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Mumbai; Dated 12/06/2024
Anandi Nambi, *Steno*

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL 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, Mumbai