

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

**BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

ITA No. 911/Mum/2024 (A.Y. 2016-17)

Pravin Pandurang Rodge,

Flat No. 301, Wadilal Tower,
Near Patel R. Mart, Hendrapada
Road, Sanewadi Badlapur West
Maharashtra – 421 503
PAN: AMFPR1027B

..... Appellant

Vs.

ITO 2(3)

2nd floor, Mohan Plaza,
Wayle Nagar, Kalyan West,
Maharashtra - 400 020

..... Respondent

Appellant by : Shri Sanjiv Brahme & Shri Jayant
Bhatt, Ld. ARs
Respondent by : Shri H. M. Bhatt, Ld. DR
Date of hearing : 11/06/2024
Date of pronouncement : 14/06/2024

ORDER

PER GAGAN GOYAL, A.M:

This appeal by assessee is directed against the order of National Faceless Appeal Centre (for short "NFAC") dated 09.01.2024 u/s. 250 of the Income Tax

Act, 1961 (in short 'the Act') for A.Y. 2016-17. The assessee has raised the following grounds of appeal:-

1. the CIT Appeals has erred in confirming the addition made by the Assessing Officer amounting to Rs. 59, 45,258/-

2. The CIT Appeals has erred in not considering the fact that notices were not received by the Assessee and no physical notices were sent to the residential address of the Assessee.

3. the Appellant craves leave to add, alter, amends and modifies the aforesaid grounds of appeal at or any time before the hearing as they may be advised from time to time.

2. The brief facts of the case are that assessee is engaged in the business of milk supplier under the name and style of M/s. Priyanka Milk Agency. The assessee has filed its return of income on 21.10.2016 declaring total income at Rs. 2, 64,580/-. The case was selected for limited scrutiny under CASS to examine the issue of large cash deposit in saving bank account of the assessee. During the year, assessee deposited Rs. 84.57 lakhs in his bank account. Out of this, Rs. 25.11 lakhs were already disclosed in the return of income filed by the assessee. The assessee filed his explanations and replies to explain the difference amount of Rs. 59, 45,258/- (Rs. 84, 57,000/- – Rs. 25, 11,742/-), but the AO was not satisfied with the reply of the assessee and added back the amount of Rs. 59,45,258/- u/s. 68 of the Act chargeable to tax u/s. 115BBE of the Act.

3. The assessee being aggrieved with this order of AO preferred an appeal before the Ld. CIT (A) who in turn dismissed the appeal of the assessee on the ground of non-appearance.

4. We have gone through the order of AO, order of the Ld. CIT (A) and submissions of the assessee alongwith grounds raised before us. It is observed

vide para 4.0 of the Ld. CIT (A)'s order that following notices were issued to the assessee, but there was no compliance by the assessee as under:-

Sr. No.	DIN Notice No.	Date of Issue of Notice	Date fixed for hearing
1	ITBA/NFAC/1029692973(1)	12.01.2021	19.01.2021 On 19.01.2021, neither any compliance received nor any adjournment letter was filed.
2	ITBA/NFAC/1035246417(1)	02.09.2021	09.09.2021 On 09.09.2021, neither any compliance received nor any adjournment letter was filed.
3	ITBA/NFAC/F/1056142519(1)	15.09.2023	25.09.2023 On 25.09.2023, neither any compliance received nor any adjournment letter was filed.
4	ITBA/NFAC/F/1056666917(1)	29.09.2023	06.10.2023 On 06.10.2023, neither any compliance received nor any adjournment letter was filed.
5	ITBA/NFAC/F/1057104147(1)	16.10.2023	25.10.2023 On 25.10.2023, neither any compliance received nor any adjournment letter was filed.
6	ITBA/NFAC/F/1057991099(1)	16.11.2023	28.11.2023 On 28.11.2023, neither any compliance received nor any adjournment letter was filed
7	ITBA/NFAC/F/1058302666(1)	29.11.2023	11.12.2023 On 11.12.2023, neither any compliance received nor any adjournment letter was filed
8	ITBA/NFAC/F/1059108485(1)	27.12.2023	05.01.2024 Final opportunity On 05.01.2024, neither any compliance received nor any adjournment letter was filed.

5. It is further observed that notices were sent on an e-mail id and the correctness of the same has not been challenged by the assessee. It is observed that in Form No. 35, assessee submitted email ID **sairajfinancial@gmail.com** whereas in Form No. 36 before us, the email ID given was **priyankaprodge35@gmail.com**. In view of the fact that appeal order was passed ex-parte, **although on merits relying on the records and documents available with him, but as there was no participation at the end of the assessee**, we deem it fit to restore the matter to the file of Ld. CIT (A) with a direction to communicate on the email IDs furnished by the assessee in Form No. 35 and 36. The assessee is directed to check its email ID on a regular interval so that progress of the matter before the Ld. CIT (A) can be updated in his records for compliance purposes. In this era of digitization, all the communications are being done on the email addresses of both the sides and the assessee is changing his email id again and again, which creates confusion. With these observations and keeping the fact in mind that there is no finding on the facts of the case and law applicable, appeal of the assessee is allowed for statistical purposes with a direction to the Ld. CIT (A) to provide a reasonable opportunity of being heard to the assessee.

6. **In the result, appeal of the assessee is allowed for statistical purposes.**

Order pronounced in the open court on 14th day of June, 2024.

Sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Sd/-

(GAGAN GOYAL)
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 14/06/2024

Dhananjay, Sr. PS

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai