

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "F" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)  
AND  
SHRI SANDEEP SINGH KARHAIL (JUDICIAL MEMBER)**

**ITA Nos. 1500, 1499/MUM/2024  
Assessment Year: 2013-14, 2017-18**

Mayur Deepakbhai Chavda,  
1004, Jairam Smruti, HFS Road,  
Near Mangalya Hall, Jogeshwari  
(East),  
Mumbai-400060.

**PAN NO. AFVPC 2397 A  
Appellant**

**Vs.**

Asstt. CIT, Central Circle-7(1),  
Mumbai.

**Respondent**

**ITA No. 1498/MUM/2024  
Assessment Year: 2017-18**

Mayur Deepakbhai Chavda,  
1004, Jairam Smruti, HFS Road,  
Near Mangalya Hall, Jogeshwari  
(East),  
Mumbai-400060.

**PAN NO. AFVPC 2397 A  
Appellant**

**Vs.**

Income Tax Officer, Ward  
24(2)(4),  
Mumbai.

**Respondent**

Assessee by : Mr. Manoj Mundra  
Revenue by : Mr. Ankush Kapoor, CIT-DR

Date of Hearing : 19/06/2024  
Date of pronouncement : 21/06/2024



## **ORDER**

### **PER OM PRAKASH KANT, AM**

These appeals by the assessee are directed against three separate orders passed by the Ld. Commissioner of Income-tax (Appeals) – 49, Mumbai [in short ‘the Ld. CIT(A)’]. The first appeal for assessment year 2013-14, is arising from the order of the Ld. CIT(A) dated 31.01.2024. The other two appeals for 2017-18 are arising, firstly from the order of the Ld. CIT(A) dated 21.02.2024 in relation to order u/s 143(3) of the Income-tax Act, 1916 (in short ‘the Act’) dated 28.12.2019) and secondly arising from the order of the Ld. CIT(A) dated 21.01.2024 in relation to order u/s 147 of the Act passed by the Assessing Officer on 29.03.2022. In all these appeals, common issues in dispute are involved and therefore, same were heard together and disposed off by way of this consolidated order.

2. At the outset, the Ld. counsel for the assessee submitted that the assessee was prevented by sufficient cause for appearing before the Ld. CIT(A) and therefore, the order of the Ld. CIT(A) being ex-parte, same might be set aside for deciding afresh.

3. On the contrary, the Ld. Departmental Representative (DR) objected and submitted that assessee did not comply either before the Assessing Officer or before the Ld. CIT(A) and therefore, appeal should be decided on merit.



4. We have heard rival submission of the parties and perused the relevant material on record. We find that in all the three appeals, the Ld. CIT(A) has decided the appeals ex-parte due to non-compliance on the part of the assessee of the various notices issued. In relevant assessments, also no compliance was made by the assessee and therefore, the assessment orders have been passed u/s 144 of the Act. For ready reference, the finding of the Ld. CIT(A) in assessment year 2013-14 is reproduced as under:

*“7.7 During the course of appellate proceedings, as stated above, sufficient time and opportunity was granted to the appellant to present his case. However, the appellant has chosen not to avail of the same. In the grounds of appeal, the appellant has contended that the reopening of assessment u/s. 147 of the Act was bad in law. The appellant has also contested the addition of Rs.277.29 Cr. made by the AO. However, as stated above, no submissions have been made to substantiate these grounds of appeal. A total amount of Rs.277.29 Cr. was found credited in the bank account of the appellant during the period relevant to the assessment year under consideration. The onus was on the appellant to explain the nature and source of these credits, with necessary supporting documentary evidences. The AO had provided sufficient time and opportunity to the appellant to furnish his explanation in this regard, but the appellant failed to do so. During appellate proceedings also, the appellant merely kept on filing letters requesting for adjournments in response to the notices of hearing issued, which showed that he had no intention to file any written submissions and he was only trying to delay the finalization of the appellate proceedings. If the appellant had any details/documents relating to the amount of Rs.277.29 Cr. found credited his bank account in his possession, he should have furnished the same for explaining the nature and sources thereof. However, despite being granted sufficient time and opportunity, the appellant failed to furnish any such details/documents explaining the nature and source of the said credits during the course of assessment proceedings and even during appellate proceedings. The appellant's failure to furnish the same during both the assessment proceedings and the appellate proceedings leads to the inescapable conclusion that he is not in possession of any such details/documents. Accordingly, after considering the facts and circumstances of the case, I find no reason to interfere with the order of the AO, which is upheld. Consequently, all the grounds of appeal taken by the appellant are DISMISSED.”*

4.1 Identical observations have been made by the Ld. CIT(A) in other two appeals.



4.2 Before us, the Ld. counsel for the assessee has filed an affidavit on behalf of the assessee. The relevant part of the said affidavit is reproduced as under:

*“4) I state and submit that there was CBI proceedings in an independent matter to which I was subjected to, and in those proceedings, the Central Bureau of Investigation had visited my office and seized all the records, files, tax invoices and other relevant documents on March 06, 2017. Copy of Search list having details of property seized by police officers under the provision of section 103 or 165, Criminal Procedure Code being annexed as Annexure 1 along with this affidavit for your perusal.*

*5) It is pertinent to note that I have been exonerated in the said CBI proceedings and a closure report has been filed by Central Bureau of Investigation in the above matter.*

*6) Above documents seized were released on February 14, 2023 and the same were again seized on April 22, 2023. Copy of Production cum seizure memo is attached herewith as Annexure 2 for your perusal.*

*7) I would further like to submit that my case was reopened for relevant assessment year on March 31, 2021.*

*8) During the course of Reassessment proceedings as well as during the course of appellate proceedings before CIT(A), no submission could be made as all the documents were seized by CBI as stated above. Hence, there was noncompliance of Notices before Assessing officer and CIT(A).”*

4.3 Upon review of the aforementioned testimony of the assessee, it is observed that the books of accounts and relevant documents pertaining to the assessment year were confiscated by the Central Bureau of Investigation and subsequently returned. In the circumstances, we find that there is a reasonable and sufficient cause for which the assessee was prevented in producing the documents before the subordinate authorities. Therefore, in the facts and circumstances of the case in the interest of substantial justice, we feel it appropriate to set aside the orders of the lower authorities in all the three appeals and restore the matter back to



the file of the Assessing Officer with the direction to the assessee to file the entire necessary document in support of its claim. The Ld. Assessing Officer is directed to adjudicate the issue in dispute involved in these appeals in accordance with law.

5. In the result, all the three appeals of the assessee are allowed for statistical purposes.

**Order pronounced in the open Court on 21/06/2024.**

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

**Sd/-  
(OM PRAKASH KANT)  
ACCOUNTANT MEMBER**

Mumbai;  
Dated: 21/06/2024  
Rahul Sharma, Sr. P.S.

**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,  
(Assistant Registrar)  
**ITAT, Mumbai**