

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

BEFORE SHRI PRASHANT MAHARISHI, AM

ITA No. 266/Mum/2024

(Assessment Year: 2012-13)

Angha Anand Warang
D-6, Warang Niwas Bunglow,
Near Bhagwati Hospital,
Rameshwadi,
Badlapur West,
Thane-421503

Vs.

Income Tax Officer,
1st Floor, Mohan Plaza,
Wayle Nagar,
Khadak Pada,
Kalyan West,
Thane 421301

(Appellant)

(Respondent)

PAN No. AIZPA7610D

Assessee by : Shri Anand Warang, Relative of Assessee
Revenue by : Shri R.R. Makwana, DR

Date of hearing: 05.06.2024

Date of pronouncement : 27.06.2024

ORDER

PER PRASHANT MAHARISHI, AM:

01. ITA No. 266/Mum/2024 is filed by Angha Anand Warang for A.Y. 2012-13 against the order of National Faceless Appeal Centre, Delhi [the learned CIT (A)] dated 20th December, 2023, wherein the appeal filed by the assessee against the assessment order dated 11th November, 2019, passed by the ITO Ward 2(1) Kalyan, under Section 144 of the Income-tax Act, 1961 (the Act) was dismissed.
02. The assessee has raised following grounds of appeal:-

"1. The learned Assessing officer case close on 31 .10.2019 as passed ex-party order on or before 60 days of the limitation date i.e. 31.12.2019 1 approach

the AO before limitation date in the month of November but order was passed and here I filed the appeal for the same and request to grant an opportunity for remand the case to a assessing authority. The Learned Assessing officer has not given a chance to prove the legality of the case it is a ex-party order so first I request you to grant opportunity to prove me the details of the amount mentioned in order so i denied the interest charges as mentioned in the order. The Learned Assessing officer was not heard the case as the ex party order was issued in appeal here to grant one chance to remand back the matter for the submission of documents and clarity of the case as there is no such income as assessee hide or escalation or neither assessee furnish any documents which is bad in law.

2. The ex-party assessment order passed after that the appeal dispose off as i am not aware of the facts that the details sought by the CIT appeal and within 3 months dispose the same as my physically and mentally health not stable the medical papers as and when require i can show to the ITAT tribunal."

03. The brief facts of the case shows that assessee is a non-filer of return wherein information is received from ITS that assessee has deposited cash amounting to ₹12,42,400/- and ₹13,91,400/- in her savings bank account with Shamrao Vithal co-operative bank and Urban Co-operative Bank. Thus, notice under Section 148 of the Act was issued on 29th March, 2019. No response was received from assessee. Notice under Section 142(1)



of the Act was also issued on 26th June, 2019, which was also not responded. The learned Assessing Officer issued show cause notice under Section 144 of the Act on 18th October, 2019, which was also not responded. The learned Assessing Officer obtained the details from both the banks under Section 133(6) of the Act.

04. Based on this, the learned Assessing Officer passed an assessment order under Section 144 of the Act making an addition of ₹26,33,800/- to the total income of the assessee by order dated 11th November, 2019.
05. The assessee preferred an appeal before Id CIT (A) wherein the assessee submitted that before the learned Assessing Officer assessee asked for the adjournment but same was not granted. Therefore, before the learned CIT (A) it was submitted that the remand report of the learned Assessing Officer may be obtained so that correct income of the assessee can be assessed. In The statement of fact filed before him, it was stated that assessee was only legal heir of the family. She does not have any brother or sisters and her father prepared a Will in 2003. Her father passed away in August, 2010 and the amount of deposit in the bank account is out of that. The learned CIT (A) on the basis of the statement of facts issued notices to the assessee wherein the assessee sought adjournment but ultimately did not comply and hence, the learned CIT (A) held that due to the lack of prosecution by the assessee the appeal is dismissed.



06. The assessee aggrieved with that is in appeal before us. Mr. Anand Warang, [husband of assessee] appeared before us and submitted a hand written letter of the assessee that due to her health issue assessee is unable to attend the hearing. Mr. Anand Warang, husband of the assessee appeared before us and submitted that if an opportunity is granted, the fact can be presented before the learned Assessing Officer. It was also submitted that non appearance before the learned CIT (A) was on account of ill health of the assessee.
07. The learned Departmental Representative vehemently submitted enough opportunity has been given to the assessee to represent her case and therefore, the orders of the lower authorities may be upheld.
08. We have carefully considered the rival contentions and find that the learned CIT (A) has not decided the appeal on the merits of the case but due to lack of prosecution. May be assessee did not remain present before him but even then the appeal should have been decided on the merits of the case. In the statement of facts, assessee has stated that on the death of her father she was the beneficiary of Will and the money has come from that source. This aspect was though before the learned Assessing Officer as well as before the learned CIT (A) but as no documentary evidence were submitted and therefore, looking to the facts and circumstances of the case and the health of the assessee, we direct the assessee to approach the learned Assessing Officer with



relevant information to substantiate the deposit of cash in her bank account. The appeal filed by the assessee is restored to the file of the learned Assessing Officer with above direction to the assessee. The learned Assessing Officer may consider the explanation of the assessee and decide the issue afresh after hearing the assessee.

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

Order pronounced in the open court on 27.06.2024.

Sd/-
(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated:27.06.2024

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

BY ORDER,

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai