

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No.4822/Mum/2023
Assessment Year: 2014-15**

Shri Nitin Nagarji Mehta, 42 Nirmal Bunglow, 10 th Road, JVPD Scheme, Vile Parle West, Mumbai - 400 056 PAN: AAHPM5176G	Vs.	Asst. Commissioner of Income Tax, Circle-33(2), 6 th Floor, C-10, Pratyaksh Kar Bhawan, Bandra Kurla Complex, Bandra (East), Mumbai - 400 051
(Appellant)		(Respondent)

Present for:

Assessee by : None

Revenue by : Shri Nagnath Pasale, D.R.

Date of Hearing : 29 . 05 . 2024

Date of Pronouncement : 26 . 06 . 2024

O R D E R

Per: Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the assessee against the order dated 26.10.2023, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2014-15.

2. In spite of sending notice for the date of hearing today, the assessee neither appeared nor filed any adjournment application, therefore, in the constrained circumstances, we are inclined to decide this appeal by perusing the orders passed by the authorities below and hearing the Ld. D.R., who vehemently supported the impugned order by claiming that the same does not suffer from any perversity, impropriety and/or illegality, hence, the appeal filed by the assessee may be dismissed in limine.

3. We observe that prima-facie there seems to be laches on the part of the assessee as in spite of affording various opportunities, the assessee neither acted diligently nor appeared before the Ld. Commissioner and therefore we are inclined not to take lenient view. However, considering the peculiar facts and circumstances of the case in totality, as the Ld. Commissioner decided the appeal of the assessee in limine but not on merits of the case and therefore for substantial justice and just decision of the case and, we are inclined to remand the instant case to the file of the Ld. Commissioner for decision afresh, suffice to say by affording reasonable opportunity to the assessee to substantiate its case.

4. We are also inclined to direct the assessee to cooperate with the appellate proceedings and file the relevant documents/information /reply which would be essential and to be needed by the Ld. Commissioner for proper adjudication of the assessee. We clarify that in case of further default, the assessee shall not be entitled for any leniency.

5. Hence the case is remanded accordingly.

6. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 26.06.2024.

**Sd/-
(RENU JAUHRI)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.