

**IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH, MUMBAI**

**BEFORE MS PADMAVATHY S, AM &
SHRI RAJ KUMAR CHAUHAN, JM**

**I.T.A. No. 1038/Mum/2024
(Assessment Year: 2016-17)**

Mrs. Saraswati K. Nair C/o International Agencies, Feltham House, Graham Road, Ballard Estate, Mumbai-400001 PAN : AACPN3410H	Vs.	The Asstt. Com. Of Income Tax, Circle-17(3), Aayakar Bhavan, M.K. Road, Mumbai-400020
Appellant)	:	Respondent)

Appellant/Assessee by : Shri M.S. Mathuria, Advocate
Revenue/Respondent by : Shri G. Santosh Kumar, Sr. DR

Date of Hearing : 12.06.2024
Date of Pronouncement : 20.06.2024

ORDER

Per Padmavathy S, AM:

This appeal is against the order of assessment passed by the Commissioner of Income Tax/ National Faceless Appeal Centre, Delhi [for short 'CIT(A)] dated 16.01.2024 for the AY 2016-17. The only grievance raised by the assessee through various grounds of appeal is that the CIT(A) has dismissed the appeal in limine without considering the letter filed by the assessee seeking time to file detail and that the CIT(A) has not given proper opportunity of being heard.

2. The assessee is an individual and filed a return of income for AY 2016-17 on 13.10.2016 declaring a total income of Rs. 47,49,480/-. The case is selected for scrutiny for the reason that " (i) large increase in sundry creditors and deduction in business income as compared to preceding year, (ii) large value of sale of share reported in STT return which is otherwise settled by actual delivery, (iii) mismatch between income credit to P&L A/c considered under other head of income and income from heads of income other than business or profession". The Assessing Officer (AO) issued a notice under section 142(1) on 12.02.2018 and 17.08.2018 along with questionnaire. The assessee submitted the details online and vide letter dated 30.08.2018 requested for extended time for online submission of details. The AO issued one more notice under section 142(1) dated 17.09.2018 and asked the assessee to submit complete details by 25.09.2018. Since the assessee did not respond to the show-cause notice issued by the AO, the AO completed the assessment under section 144 whereby he made addition under section 41(1) and also treated the difference of sale and purchase as addition to Business Income. Aggrieved, assessee filed further appeal before the CIT(A). The CIT(A) upheld the various addition made by the AO for the reason that the assessee has not responded to the notices issued and failed to furnish any documentary evidences against the said addition. Accordingly, the CIT(A) passed an ex-parte order confirming the additions.

3. The ld. AR submitted that the assessee is a senior citizen who is 90 year old and is running the proprietary concern which was earlier owned by assessee's husband. The ld. AR further submitted that the assessee is not well-versed with income tax proceedings and therefore could not respond to the notices issued by the AO/CIT(A) in time. The ld. AR also submitted that the assessee however collated the relevant details called for by the AO and submitted the same. The ld.

AR drew our attention to the adjournment letter dated 30.12.203 filed before the CIT(A) seeking time to file relevant details. The ld. AR submitted that the CIT(A) issued a notice calling for details on 29.12.2023 to comply with the notice by 03.01.2024. The ld. AR further submitted that the assessee could not collect the details within such a short period of time and therefore sought further time till 18.01.2024, however, the CIT(A) failed to consider the adjournment letter dismissed the appeal in limine confirming the additions made by the AO. The ld. AR therefore, argued that the principal of natural justice have not been complied with by the CIT(A) and the order thus passed is liable to be quashed.

4. The ld. DR on the other hand submitted that the assessee was given ample opportunity by the AO and that the assessee failed to submit any details. The ld. DR further submitted that even before the CIT(A) the assessee did not submit any further details and only been asking for adjournments. Therefore, the ld. DR argued that the CIT(A) has correctly upheld the addition.

5. We have heard the parties and perused the material available on record. We noticed that the AO issued notice to the assessee calling for various details with regard to sundry creditors, transactions in shares and the mismatch in the income other than Business Income. Since the assessee did not furnish any details, the AO completed the assessment under section 144 by making various additions. We notice that during the appellate proceedings, the assessee vide letter dated 30.12.2023 sought for adjournment (page 1 & 2 of the PB) to file details by 18.01.2024. We also notice that the assessee has filed an application for rectification under section 154 before the CIT(A) stating that the finding recorded by the CIT(A) that the assessee has not responded to the notice dated 29.12.203 is not correct since the assessee has filed letter of adjournment dated 30.12.2023.

From the perusal of these facts, it is clear that the assessee has not represented the case properly before the AO and the CIT(A). However, considering the fact that the assessee is a senior citizen, in the interest of natural justice and fair play, we are inclined to give one more opportunity to the assessee to represent the case properly by furnishing the relevant details. Accordingly, the case is remitted back to the CIT(A) for fresh consideration with a direction to call for relevant details to decide the appeal in accordance with law. The assessee is directed to provide all the details as may be called for by the CIT(A) without seeking adjournment and co-operate with the appellate proceedings. It is ordered accordingly.

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

Order pronounced in the open court on 20-06-2024.

Sd/-

(RAJ KUMAR CHAUHAN)
Judicial Member

**SK, Sr. PS*

Copy of the Order forwarded to :

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

Sd/-

(PADMAVATHY S)
Accountant Member

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai