

| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
&

SHRI RAHUL CHAUDHARY, HON'BLE JUDICIAL MEMBER

I.T.A. No. 1482/Mum/2024

Assessment Year: 2017-18

Ranjitsingh Preamsingh Rawal 2A-2001, Dheeraj Dreams CHS Ltd. LBS Road, Bhandup (West) Mumbai - 400078 [PAN: AAQPR9440K]	Vs	Income Tax Officer, Ward - 41(2)(4), Mumbai
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Aditya Ramchandran, A/R
Revenue by :	Shri R.R. Makwana, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 09/07/2024
घोषणा की तारीख /Date of Pronouncement: 09/07/2024

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

This appeal by the assessee is preferred against the order dt. 28/02/2024 by NFAC, Delhi, pertaining to Assessment Year 2017-18.

2. The grievance of the assessee reads as under:-

"1. On the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in dismissing the appeal on the ground that the appellant has not filed the return of income and, further, the appellant has also not paid the amount equal to advance tax as required under Section 249(4)(b).

2. On the facts and circumstances of the case and in law, the Ld. CIT (A) ought to have appreciated that the appellant had paid the tax amounting to ₹ 3,51,376 on the basis of self-assessment of tax liability during the course of the assessment proceeding and it was more than the amount equal to the advance tax payable by the appellant.

3. On the facts and circumstances of the case and in law, the Ld. CIT (A) Ought to have deleted the addition of ₹ 7,15,819 made under Section 68.

*4. On the facts and circumstances of the case and in law, the Ld. CIT (A) Ought to have deleted the addition of ₹ 13,41,000 made under Section 69A.
The Appellant craves leave to add, alter, amend, vary and / or withdraw any or all the above grounds of appeal."*

3. The peculiar facts of the case are that the Id. CIT(A) dismissed the appeal as infructuous by observing that the assessee has not paid amount equal to the advance tax, while filing the appeal in Form No. 35 before him.

4. We have carefully perused Form No. 35. We find that at Clause 9.1., the assessee has specifically mentioned the details of tax payments with BSR Code - 0000562, paid on 26/09/2019 and the amount has been mentioned at Rs.3,51,376/-, which is the amount equal to the amount of advance tax. Therefore, the Id. CIT(A) is directed to decide the appeal on merits of the case and accordingly appeal is restored to the file of the Id. CIT(A) to be decided afresh on merits after affording reasonable and adequate opportunity of being heard to the assessee.

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

Order pronounced in the Court on 9th July, 2024 at Mumbai.

Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 09/07/2024
SC S/P

3

आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :

1. ँ पीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (ं पील) / The CIT(A)-
5. विभागीय प्रतिनिधि ,आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai