

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI "D" BENCH : MUMBAI

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

ITA.No.7/Mum./2024  
Assessment Year 2014-2015

Rajkumar Roopchand Jain, 1601, Raj Spaces, Goregaon West, Mumbai – 400 104. Maharashtra PAN AAJPJ6854C	vs.	The Income Tax Officer, Ward-31(3)(1), Kautilya Bhawan, BKC Bandra, Mumbai – 400 051. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Smt. Sanyogita Nagpal, CIT-DR On behalf of Smt. Mahita Nair, Sr. DR

Date of Hearing :	08.07.2024
Date of Pronouncement :	18.07.2024

**ORDER**

**PER SATBEER SINGH GODARA, J.M.**

This assessee's appeal, for assessment year 2014-2015, arises against National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2023-24/1054487710(1), dated 20.07.2023, in proceedings u/s.143(3) r.w.s.147 of the Income Tax Act, 1961 (in short "the Act").

Case called twice. None appeared for assessee. He is accordingly proceeded ex-parte.

2. It emerges from a perusal of the assessee's pleadings raised in the instant appeal that he is against both the learned lower authorities action disallowing sec.10(38) long term capital gains exemption claim of Rs.51,31,000/- in the course of assessment dated 27.12.2017 as upheld in the lower appellate ex-parte discussion. Learned DR vehemently argued in light of the CIT(A)-NFAC's discussion herein in page-3 para-4 that the assessee had been duly afforded numerous opportunities of hearing which he failed to avail. We note in this factual backdrop that although the CIT(A)-NFAC has indeed discussed the relevant factual matrix vis-à-vis the assessee's sole substantive grievance herein above at length running into 34 pages, the fact remains that the taxpayer has only defaulted on the last opportunity of hearing i.e., 23.06.2023. Faced with this situation and in the larger interest of justice we restore the assessee's instant appeal back to the CIT(A)-NFAC for it's afresh adjudication, preferably within three effective opportunities of hearing, subject to the rider that it shall be the taxpayer's onus and

responsibility only to plead and prove all the relevant facts in consequential proceedings. Ordered accordingly.

3. Delay of 104 days in filing the appeal before the tribunal is condoned in light of Collector, Land Acquisition vs., MST Katiji [1987] 167 ITR 471 (SC) having settled the law long back that all such technical aspects must make a way for the cause of substantial justice.

4. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open Court on 18.07.2024

Sd/-  
[GIRISH AGARWAL]  
ACCOUNTANT MEMBER  
Mumbai, Dated 18<sup>th</sup> July, 2024  
VBP/-  
Copy to

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

1.	The applicant
2.	The respondent
3.	The Pr. CIT, Mumbai concerned
4.	D.R. ITAT, "D" Bench, Pune.
5.	Guard File.

//By Order//

//True Copy //

Asst. Registrar, ITAT, Mumbai Benches,  
Mumbai.