

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.2004/Mum./2024
Assessment Year 2018-2019

Mrs. Roshni Vishal Patel, 1501, Shree Rasraj Towers, Rokdiya Cross Lane, Pai Nagar, Borivali (W), Mumbai - 400 092. Maharashtra.	vs.	The Income Tax Officer-4(4), 6 th Floor, Ashar IT Park, Road No.16Z, Wagle Industrial Estate, Thane - 400 604. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Kirit Mehta
For Revenue :	Smt. Mahita Nair, Sr. DR

Date of Hearing :	10.07.2024
Date of Pronouncement :	18.07.2024

ORDER

PER SATBEER SINGH GODARA, J.M.

This assessee's appeal, for assessment year 2018-2019, arises against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2023-24/1061240796(1) dated 21.02.2024, in proceedings u/s.147 r.w.s.144 of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. It emerges at the outset that the CIT(A)-NFAC's lower appellate discussion has not decided the assessee's appeal on merits since the same stands dismissed *in limine* u/sec.249(4)(b) of the Act for want of payment of advance tax. The CIT(A)-NFAC's findings to this effect are in paras 3.1 to 4 at pages 3 to 5 of his order.

3. Faced with this situation, we invited learned DR's attention to the fact that neither there is any clear-cut indication about the assessee's advance tax liability in the impugned assessment year nor the CIT(A)-NFAC has afforded any opportunity to this effect for making good the alleged corresponding default. We deem it appropriate in the larger interest of justice in these peculiar facts and circumstances that the assessee's instant sole substantive issue deserves to be restored back to the CIT(A)-NFAC for its afresh adjudication as per law in very terms. We further make it clear that once the assessee's lower appeal is treated as admitted on the advance tax payment issue; it shall be her risk and responsibility to

plead and prove her case with all the relevant facts in consequential proceedings, within three effective opportunities of hearing. Ordered accordingly.

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 AGRAWAL]
ACCOUNTANT MEMBER

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Mumbai, Dated 18th July, 2024

VBP/-

Copy to

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 //

Assistant Registrar, ITAT, Mumbai Benches,
Mumbai.