

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

**MS. PADMAVATHY S, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 2215/MUM/2024  
(Assessment Year: 2009-10)**

**Dilip Singh,**  
231 Quay Street Reay Road  
Mumbai - 400010  
[PAN: AAJPS1145F]

..... **Appellant**

Vs

**Income Tax Officer 20(1)(4)**  
Lalbaug, Parel, Mumbai - 400012

..... **Respondent**

**Appearance**

For the Appellant/Assessee : None  
For the Respondent/Department : Smt. Mahita Nair

**Date**

Conclusion of hearing : 15.07.2024  
Pronouncement of order : 19.07.2024

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. By way of the present appeal the Assessee has challenged the order dated 29/06/2022, passed by the National Faceless Appeal Centre (NFAC), Delhi, [hereinafter referred to as the '**CIT(A)**'] for the Assessment Year 2009-10, whereby the Ld. CIT(A) had dismissed the appeal of the Assessee against the Assessment Order, dated 22/12/2018, passed by the Income Tax Officer 20(1)(4), Mumbai under Section 143(3) r.w.s. 254 of the Income Tax Act, 1961 (hereinafter referred to as 'the **Act**').
2. The Assessee has raised following grounds of appeal in ITA No. 2215/Mum/2024:
  - "1. *The learned CIT(A) erred in law and facts in passing the impugned order.*

2. *The learned CIT(A) erred in law and on facts that an ex-parte order should be based on the material available on record.*
  - 2.2. *The learned CIT (A) erred in law and on facts in making addition of Rs. 1,07,27,183 without realising that its effect on the net profit and gross margin of the said addition is unrealistic and unreasonable.”*
3. When the appeal was taken up for hearing none was present on behalf of the Appellant. On perusal of the order impugned we find that the CIT(A) has dismissed the appeal without examining the merits of the matter. As per provisions contained in Section 250 of the Act, it is the statutory obligation of the CIT(A) to dispose of an appeal on merits. Section 250(6) of the Act lays down that the order passed by the CIT(A) shall be in writing and shall state the points for determination; the decision thereon; and the reason for the decision. [*Marvel Industries Limited Vs. Deputy Commissioner of Income Tax, Circle 2(2)(2), Mumbai, dated 19/07/2022, ITA No. 779/Mum/2022*]. The scheme of Section 250 of the Act does not visualize any situation in which an appeal can be summarily dismissed by the CIT(A) disregarding the material on record. On perusal of the order passed by the CIT(A) we find that there is no discussion on the averments made in the Statement of Facts filed before the CIT(A) as well as the grounds of appeal raised. Therefore, in view of the aforesaid, the order, dated 11/09/2023, passed by the CIT(A) is not sustainable in law as the CIT(A) was required to decide the appeal on merits. Accordingly, order dated 29/06/2022, passed by the CIT(A) is set aside and the appeal is restored back to the file of CIT(A) for denovo adjudication as per law.
4. In terms of above, Ground No. 2 is allowed while all the other grounds raised in the appeal are dismissed as being infructuous.

5. In result, in terms of paragraph 4 above, appeal preferred by the Assessee is allowed for statistical purposes.

Order pronounced on 19.07.2024.

**Sd/-**  
**(Ms. Padmavathy S)**  
**Accountant Member**

**Sd/-**  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated : 19.07.2024  
Poonam Mirashi,  
Stenographer

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

1. अपीलार्थी / **The Appellant**
2. प्रत्यर्थी / **The Respondent.**
3. आयकर आयुक्त/ **The CIT**
4. प्रधान आयकर आयुक्त / **Pr.CIT**
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / **DR, ITAT, Mumbai**
6. गार्ड फाईल / **Guard file.**

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai