

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI

**BEFORE SHRI PRASHANT MAHARSHI, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A No.1911/Mum/2020
(Assessment Year : 2012-13)**

Shri Ajay A Sachdev Plot No.23-24, Sanjay Niwas S.V. Road, Nadiawala Colony No.1, Malad (W), Mumbai-400 026 PAN : AADPS3427J	vs	The DCIT 13(2)(2) Aayakar Bhavan, MK Road, Mumbai-400 020
APPELLANT		RESPONDENT

Assessee by : Ms Mona Solanki
Respondent by : Shri Manoj Kumar Sinha (CIT DR)

Date of hearing : 11/07/2024
Date of pronouncement : 24/ 07/2024

ORDER

PER ANIKESH BANERJEE, J.M:

The instant appeal of the assessee was filed against the order of the Learned Commissioner of Income-tax (Appeals)-21, Mumbai [for brevity, 'Ld.CIT(A)'] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), for Assessment Year 2012-13, date of order 22.12.2016. The impugned order was emanated from the order of the LD. Dy. Commissioner of Income Tax Circle-

13(2)(2), Mumbai (in short, 'the A.O.')

passed under section 144 of the Act, date of order 26/03/2015.

2. The assessee has taken the following grounds of appeal: -

"a) " The Id. CIT (A) has on the facts and in the circumstances of the case and in law erred in accepting the order of the Ld. AO in making an addition of Rs. 1,72,43,500/- and treating the same as Income from Other Sources. The same is the sale consideration of two properties in the name of Shakti Good Health & Lifestyle Private Ltd, in which the assessee is a director. We request Your Honor to kindly delete the said addition.

b) The Id. CIT (A) has on the facts and in the circumstances of the case and in law, erred in accepting the Ld. AO order in making an addition of Rs. 38,29,688/- u/s 69A in respect of cash deposits made in the assessee's bank accounts. The said addition may please be deleted.

c) On the facts and circumstances of the case and in law, the Id. CIT (A) has erred in accepting the Ld. AO order in making an addition of Rs. 2,27,000/- in respect of credit card expenditure. We request Your Honor to kindly delete the said addition.

d) On the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in accepting the Ld. AO in making an addition of Rs. 1,28,547/- being interest income but as per the submission dated 11.05.2016, the Ld. AR submitted that the appellant had properly shown interest income under the head 'Income from Other Sources' and had claimed the credit for TDS also. We request Your Honor to kindly delete the said addition.

e) The assessee craves leave to add, alter, amend, modify or drop the grounds of appeal at the time of hearing."

3. The brief facts of the case are that the assessee's case was rejected by the ITAT, "A" Bench, Mumbai due to nonappearance before the Bench. The miscellaneous application was filed by the assessee which was accepted by the Bench and restored the matter back for hearing with a direction to condone delay of 1341 days in filing of appeal. It was directed that the reason for the delay should be explained before the Bench. Accordingly, Ld.AR explained that due to negligence of the consultant, the assessee was not able to file the appeal in time. So, the appeal was filed with a delay of 1341 days. The Ld.DR has not made any strong objection to condoning the delay in filing the appeal. The reason for the delay is explained before the Bench with filing of affidavit by the assessee. Accordingly, the Bench condoned the delay and accepted appeal for hearing.

4. In factual aspect, the addition was made during the assessment proceedings amount to Rs.1,72,43,500/- on account of income from other source, Rs.38,29,688/-, on account of cash deposit in bank remained unexplained, payment of credit card amount to Rs.2,27,000/- and on account of interest amount to Rs.1,28,547/- which works out to total amount of Rs.2,14,28,735/- was added back with the total income of the assessee. The assessment was completed under section 144 of the Act. The aggrieved assessee filed an appeal before the Id. CIT(A). But the Ld.CIT(A) has rejected the appeal and remanded the matter back only on single point. Being aggrieved on the appeal order, the assessee filed an appeal before us.

5. The Ld.AR first prayed that both the appeal and the assessment proceedings were not represented properly by the authorized representative of the assessee. So, the Ld.AR prayed for further opportunity before the Ld.AO and ready to represent the matter before the Id. AO.

6. The Ld.DR argued and fully relied on the order of the revenue authorities and Ld.DR further opposed setting aside the matter before the Id. A.O.

7. We heard the rival submission and considered the documents available in the record. We find that the assessee's matter was exparte before the Assessing Officer and accordingly passed the order under section 144 of the Act. In case of appeal, the assessee's issue remains untouched by the Ld.CIT(A). We find that another opportunity should be given to assessee to represent the matter before the Ld.AO. Accordingly, we set aside the appeal order and remit back the matter to the file of the Ld.AO. We are not expressing any view about the merit of the case which will impair the assessment proceedings. Needless to say, the assessee should get a reasonable opportunity of hearing in set aside proceedings. Further, the assessee should be diligent and co-operative before the Id. AO in set aside proceeding for quick disposal of the assessment.

8. In the result, **ITA No.1911/Mum/2020** is allowed for statistical purposes.

Order pronounced in the open court on 24th day of July, 2024.

Sd/-

(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 24/07/2024

Pavanan

sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar), ITAT, Mumbai