

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

**ITA No.1949/M/2024  
Assessment Year: 2014-15**

Shri Saifullah Abdullah Khan, D-24, Mek Industrial Comp, Mumbra Thane – 400612 Maharashtra <b>PAN: ABEPK4182C</b>	Vs.	Commissioner of Income Tax Appeal, National Faceless Appeal Centre, New Delhi, ITO, Ward 3(3), Thane
(Appellant)		(Respondent)

**Present for:**

Assessee by : None  
Revenue by : Shri Manish Ajudiya, Sr. A.R.

Date of Hearing : 16 . 07 . 2024  
Date of Pronouncement : 26 . 07 . 2024

**O R D E R**

**Per : Satbeer Singh Godara, Judicial Member:**

This assessee's appeal for assessment year 2014-15 arises against the National Faceless Appeal Centre(NFAC) Delhi's DIN & order No.ITBA/NFAC/S/250/2023-24/1060913983(1) dated 14.02.2024, in proceedings under section 271(1)(C) of the Income Tax Act, 1961 (in short 'the Act').

2. Case called twice. None appears at assessee's behest. It is accordingly proceeded ex-parte.

3. The assessee pleads the following substantive grounds in the instant appeal:

*"1. On the facts and circumstances of the case the order passed under section 250 of the Act by Learned Commissioner of Income Tax (Appeal), is bad in law and deserves to be quashed.*

*2. On the facts and circumstances of the case and in Law, the Learned Commissioner of Income Tax (Appeal), has failed to consider that the appellant has already filed the appeal No. 6367/Mum/2018 and the Hon'ble tribunal has already set aside the penalty order vide order dated 10.01.2020.*

*3. On the facts and circumstances of the case and in law, the Learned Commissioner of Income Tax (Appeal) has erred in not passing the order.*

*4. The Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal."*

4. Learned departmental representative has vehemently supported both the lower authorities' respective findings

levying section 271(1)(c) penalty in assessee's hands thereby treating it as a case of concealment of taxable income. We notice in this factual backdrop that the learned CIT(A's) impugned ex-parte lower appellate discussion has neither framed any points of determination nor there is any detailed adjudication thereupon as contemplated u/s 250(b) of the Act. Faced with this situation, Shri Manish Ajudiya invited our attention to page 4, para 4 in the learned CIT(A's) findings that he had afforded multiple opportunities to the assessee which the latter failed to avail. He next took us to para 6, page 7 of the lower appellate order that all the relevant facts have been duly considered. We find no merit in the Revenue's instant technical arguments once there is no detailed adjudication in the impugned lower appellate order in preceding terms. We accordingly deem it appropriate in the larger interest of justice to restore the assessee's instant appeal back to the learned CIT(A) for its appropriate adjudication subject to a rider that it shall be assessee's risk and responsibility only to plead and prove all the relevant facts within three effective opportunities of hearing in consequential proceedings. Ordered accordingly.

5. Delay of 2 days in filing is condoned as per the assessee's condonation averments in the case file.

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

**Order pronounced in the open court on 26.07.2024.**

**Sd/-  
(OMKARESHWAR CHIDARA)  
ACCOUNTANT MEMBER**

**Sd/-  
(SATBEER SINGH GODARA)  
JUDICIAL MEMBER**

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.