

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH  
MUMBAI  
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER  
ITA No. 4015/MUM/2023  
(A.Y.2011-12)

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| Lata Sriram<br>12/N, Dilwara,<br>M.K.Road,<br>Mumbai – 400020. | Vs. | ITO 16(2)(4),<br>Aayakar Bhavan,<br>M.K.Road,<br>Mumbai -400020. |
| PAN/GIR No. AAUPS1197G   |     |  |
| (अपीलार्थी/Appellant)  |     | (प्रत्यर्थी/Respondent)  |

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|---------------|--------------------------------|
| Appellant by  | None                           |
| Respondent by | Shri Manoj Kumar Sinha, Sr. DR |

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|--------------------------------------|------------|
| सुनवाई की तारीख/Date of Hearing      | 29.07.2024 |
| घोषणा की तारीख/Date of Pronouncement | 30.07.2024 |

**ORDER**

**PER PAVAN KUMAR GADALE, JM:**

The appeal is filed by the assessee against the order of National Faceless Appeal Centre (NFAC), Delhi / (CIT(A) passed u/sec 144 r.w.s147 and u/sec 250 of the Act.

1. Your appellant submits that the Assessing Officer is not justified in working out the income of Rs.1,63,39,203/- against NIL income. The Assessing Officer has not considered the submissions and has computed profit from share transactions without considering the loss in respect of broker Alfa Commodities and prime broker company which amounts to Rs.2,58,70,506/- (Rs.13,81,061/- + Rs.2,44,89,445/-). The Assessing Officer has only considered and estimated profit on the basis of few documents available to him without giving proper opportunity of being heard. Further, there were carried

*forward losses of preceding previous years which Assessing Officer failed to consider while completing the assessment.*

*2. Your appellant submits that the Assessing Officer is not justified in disallowing cash deposit, professional fees, interest income and unexplained credit card expenses without giving proper opportunity of being heard.*

*3. Your appellant prays that the additions made by Assessing Officer be dropped.*

*4. Your appellant craves to leave, to add, to alter, amend or delete any of the grounds of appeal.*

2. The brief facts of the case are that, the assessing Officer (A.O) has received information that the assessee has made transactions of shares and commodities trading, credit card payments of Rs.2,13,385/- and received professional fees and interest of Rs. 5,66,288/- in the F.Y 2010-11. Since the assessee has not filed the return of income and the AO has reason to believe that the income has escaped assessment and issued notice u/sec 148 of the Act. Subsequently the AO has issued notice u/sec 142(1) of the Act and there was no response. Therefore the A.O has dealt on the various factual aspects and also the issued notice u/s 133(6) on the Stock Exchange asking for details of transaction under taken by the assessee in the F.Y 2010-11. Since there was no reply from the assessee even after issuing the show cause notice, the AO considering the information available on record has invoked the provisions of section 144 of the Act and made addition of professional fee, income estimated on commodity trading and unexplained credit card payments

and finally assessed the total income of Rs. 1,77,18,876/- and passed the order u/sec 144 r.w.s147 of the Act dated 20.12.2018.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and has issued notices of hearing and since there was no proper compliance by the assessee to notices. Therefore the CIT(A) considering the information on record has sustained the additions made by the A.O. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing none appeared on behalf of the assessee and the Ld. DR supported the order of the CIT(A).

5. We heard the Ld.DR submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no proper compliance in spite of providing adequate opportunity of hearing and the notices were issued on various dates but there was no proper compliance to the notices. Therefore, the CIT(A) was of the opinion that the assessee is not interested in prosecuting the appeal and dismissed the appeal ex-parte confirming the action of the assessing officer. The Ld. CIT(A) has issued the notices of hearing but there was no proper due compliance and thus the Ld.CIT(A) came to a conclusion that the assessee is not

interested and decided the appeal based on the information available on record. Whereas the assessee has raised grounds of appeal challenging the additions made by the A.O and there could be various reasons for non submissions of details which cannot be overruled. Therefore, considering the facts and principles of natural justice, we shall provide with one more opportunity of hearing to the assessee to substantiate the case with evidences and information. Accordingly, set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of the Appeal. Accordingly, we allow the grounds of appeal of the assessee for statistical purposes.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 30.07.2024

Sd/-  
**(GIRISH AGRAWAL)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

Mumbai, Dated: 30/07/2024

KRK

**Copy of the Order forwarded to:**

1. The Appellant,
2. The Respondent

3. The CIT(A)-
  4. CIT
  5. DR, ITAT, Mumbai
  6. Guard file.
- //True Copy//

BY ORDER,  
(Dy./Asstt. Registrar)ITAT,  
Mumbai