

IN THE INCOME TAX APPELLATE TRIBUNAL "H (SMC)"BENCH  
MUMBAI

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &  
SMT RENU JAUHRI, ACCOUNTANT MEMBER

ITA No.2033/MUM/2024  
(A.Y.2017-18)

Ashok Kuttappan, 1802, 18 <sup>th</sup> Floor, B- Wing Green Palms, Plot no. 18/19, Sector 15, Palm beach Road, Ghansoli, Navi Mumbai-400701.	Vs.	ITO, Ward – 28(1)(1), 3 <sup>rd</sup> Floor, Tower No. 6, Vashi Railway Stn, Vashi – Navi Mumbai -400703.
PAN/GIR No. AMRPK1824H		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by	Ms.Vinita Nara.AR
Respondent by	Ms.Jancy Elizabeth Rani. Sr.DR

सुनवाई की तारीख/Date of Hearing	25.07.2024
घोषणा की तारीख/Date of Pronouncement	27.07.2024

**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 143(3) and u/sec 250 of the Act.

2. At the time of hearing, the Ld.AR of the assessee submitted that there is a delay in filing the appeal before the Hon'ble Tribunal and filed an application for condonation of delay . Whereas, the facts mentioned in the affidavit are reasonable and the Ld.DR has no specific

objections. Accordingly, we condone the delay and admit the appeal. The assessee has raised the following grounds of appeal:

*1. The Ld. CIT(A), Delhi erred in not affording sufficient opportunity of being heard.*

*2. The Ld. Cit(A), Delhi erred in confirming order of Ld. AO adding Rs. 5,76,500/-*

2. The brief facts of the case are that, the assessee is an individual and the assessee has filed the return of income for the A.Y 2017-18 disclosing a total income of Rs. 30.07.2017. Subsequently the case was selected for limited scrutiny under CASS. The Assessing Officer( AO) as per the information received found that the assessee has made credit card payments/ purchases of Rs.5,76,500/- and has failed to provide any documentary evidences in support of payments. Further, notice u/sec 143(2) & u/sec 142(1) of the Act are issued. Since there was no compliance by the assessee, the AO has invoked the provisions of Sec. 144 of the Act and made addition of Rs.5,76,500/- U/sec 69C of the Act and assessed the total income of Rs 8,76,490/- and passed the order u/sec143(3) of the Act dated 16.12.2019.

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 compliance by the assessee. Therefore the CIT(A)

considering the information on record has confirmed the action of the A.O and dismissed the appeal. 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, the Ld.AR submitted that the CIT(A) has erred in confirming the action of the Assessing officer overlooking the information/details of the assessment proceedings. Further the assessee has a good case on merits and shall substantiate with the material evidences and prayed for an opportunity to explain before the lower authorities. Per Contra, the Ld.DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no compliance nor appearance in spite of providing adequate opportunity of hearing and the notices were issued. 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 CIT(A) has issued the notices of hearing on 02.02.2021, 21.03.2023, 20.04.2023 & 21.12.2023 referred at Page 3 Para 4.1 of the order but there was no response 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 addition u/sec69C of the Act made by the A.O and there could be various reasons for non appearance 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 Assessing Officer to adjudicate afresh and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information. Accordingly, we allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 27.07.2024.

Sd/-  
**(RENU JAUHRI)**  
**ACCOUNTANT MEMBER**

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

Mumbai, Dated: 27/07/2024

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