

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'H (SMC)'
BENCH MUMBAI**

**BEFORE: SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
&
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 2790/MUM/2024
(Assessment Year : 2015-16)**

Harsora Hotels pvt. Ltd. 577/578, Hotel Green View, N.H.No. 8, Opp. 21 st Centuary Hospital, Vapi, Gujarat-396191.	Vs.	ACIT-5(1)(2), Aaykar Bhavan, M.K.Marg, Mumbai-400020.
PAN/GIR No. AAACH1522M		
(Appellant)	..	(Respondent)

Assessee by	None
Revenue by	Shri. Asif Karmali, Sr. DR
Date of Hearing	29/07/2024
Date of Pronouncement	31/07/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 21.03.2024 passed in Appeal no. CIT(A) 10, Mumbai/10185/2017-18 by the Ld. Commissioner of Income-tax(Appeals)/ National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment year [A.Y.] 2015-16, wherein learned CIT(A) has dismissed assessee's first appeal in default of assessee.

2. Briefly stating the facts, that the return filed by the assessee on 29.10.2015 was processed u/s. 143(1) of the Act. Thereafter the case was selected for limited scrutiny. After issuing statutory notices u/s. 143(2) and 142(1) of the Act and considering the response of the assessee, learned assessing officer disallowed the deduction of Rs. 42,53,662/- u/s. 14A r/w section 115JB of the Act. Aggrieved by the assesment order, assessee filed an appeal before learned CIT(A), who dismissed assessee's appeal in absentia.
3. Assessee filed this appeal on the ground that learned CIT(A) has passed ex-parte impugned order without affording sufficient opportunity of hearing to the appellant assessee and erred in confirming the above said addition made by assessing officer.
4. In response to the notice issued by the tribunal, learned DR appeared and participated in the hearing.
5. We have perused the records and heard learned DR as none argued for the absentee appellant assessee.
6. Learned DR has submitted that assessee was provided sufficient opportunity of hearing by issuance of notices on four occasions by learned CIT(A) but for no avail. Learned DR has supported impugned order passed by the first appellate authority.
7. Perusal of the impugned order shows that learned CIT(A) has mentioned in the concluding para 7.3 of the impugned order that the appellant has not pursued the appeal. No details, documents or submissions have been provided by the

appellant to substantiate the grounds. He concluded that mere facts mentioned in form no. 35 cannot be considered. This conclusion led him to dismiss assessee's first appeal.

8. Learned CIT(A) was expected to state the points for determination, the decision there on and the reasons for the decision as provided u/s. 250(6) of the Act. We are conscious of the fact, that assessee has not turned up before the first appellate authority in response to the notices issued on four different occasions. However, in the interest of justice and fair play, we deem it appropriate to remit the matter back to the file of learned CIT(A) for denovo adjudication on merit. We further direct the assessee to be diligent and cooperative in attending the hearings and making submissions before the first appellate authority for the expeditious and effective disposal of the appeal. Assessee should refrain from seeking any adjournment but for compelling and unavoidable reasons. Needless to say that learned CIT(A) shall ensure the observance of the principles of natural justice. It is made clear that we have not made any observation on the merits of the case. The appeal is thus liable to be allowed.

9. In the result, the appeal is allowed. Impugned order dated 21.03.2024 is set aside. The case is restored back to the file of the learned CIT(A) for statistical purposes.

Order pronounced on 31.07.2024.

Sd/-

**(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai; Dated 31/07/2024
Anandi Nambi, *Steno*

Sd/-

**(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai