

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

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)  
AND  
SHRI SUNIL KUMAR SINGH (JUDICIAL MEMBER)**

**ITA Nos. 2832 & 2829/MUM/2024  
Assessment Year: 2011-12 & 2012-13**

Film Set Light Spot Welfare Society,  
Flat No. 101, C Wing, 1<sup>st</sup> floor, Om  
Swarup CHSL, Kadamwadi, Marol  
Pipeline, Andheri East,  
Mumbai-400059.

**PAN NO. AAACF 8676 L  
Appellant**

Exem. Ward 1(3),  
Exemption 6<sup>th</sup> floor, MTNL, Ex.  
**Vs.** Building, Cumballa Hills,  
Pedder Road,  
Mumbai-400026.

**Respondent**

Assessee by : Mr. Hitesh Shah, CA (Virtually  
Appeared)  
Revenue by : Mr. Asif Karmali, Sr. DR

Date of Hearing : 30/07/2024  
Date of pronouncement : 31/07/2024

**ORDER**

**PER OM PRAKASH KANT, AM**

These appeals by the assessee are directed against two separate orders, both dated 19.3.2024 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short 'the Ld. CIT(A)'] for assessment year 2011-12 and 2012-13 respectively.



2. Identical grounds have been raised in both these appeals and therefore, for brevity the grounds raised by the assessee in assessment year 2011-12 are reproduced as under:

*1. The Hon. CIT(A) ought to have appreciated the fact that appellant could not represented its case due to circumstances beyond its control.*

*2 The Hon. CIT(A) was not justified in summarily rejecting the appeal without considering the submissions filed on 23/06/2023.*

*3 The Hon. CIT(A) and the Ld. AO erred in not appreciating the fact that appellant could not file its return due to circumstances beyond its control.*

*4 The Hon. CIT(A) and the Ld. AO were not justified in disregarding the fact that assessee was non-profit company registered U/S.25 of the Companies Act and had also received Registration U/S.12A.*

*5 The Ld. AO erred in denying exemption U/S. 11 of the Income Tax Act.*

*6. The Ld. AO was not justified in considering the interest received of Rs.37,12,020/- as income from other sources.*

3. At the outset, the Ld. counsel for the assessee submitted that the these appeals have been adjudicated ex-parte qua the assessee without providing opportunity of being heard and therefore, same should be set aside and restored back to the file of the Ld. CIT(A) for deciding afresh.

4. The Ld. Departmental Representative (DR) relied on the order of the lower authorities.

5. We have heard rival submission of the parties and perused the relevant material on record. In ground No. 1 and 2, the assessee is



aggrieved with the summarily rejection of the assessee without considering submission of the assessee and non-representation on the part of the assessee due to circumstances beyond its control. Before us, the Ld. counsel for the assessee submitted that four notices had been issued from April 2023 to June 2023 within a period of three months and due to hospitalization of his brother who was suffering from cancer, same could be complied. He submitted that his request for allowing further extension of time for furnishing for information was not accepted and the Ld. CIT(A) after considering the part information available on record, dismissed the appeal observing that the assessee failed to support the grounds raised in the appeal. The relevant finding of the Ld. CIT(A) is reproduced as under:

*"2. The case was taken up for hearing and notices u/s 250 of the Act, were issued on 28/12/2020 & 19/01/2021 fixing the case for furnishing written submission. In response to these notices the Appellant has requested to grant time for submit written submission. Again notices were issued on 05/04/2023, 25/04/2023, 04/05/2023, 16/05/2023, 24/05/2023 & 14/06/2023. In response to these notices the appellant has again & again requested to grant some time for furnishing written submission. The appellant has submitted documents i.e. Financial statements with Audit Report and memorandum of Association, Certificate of Incorporation and Registration u/s 12AA on 23/06/2023 and quoted remarks "with reference to the above appeal, we submit herewith the copies of Financial statements with Audit Report and memorandum of Association, Certificate of Incorporation and Registration u/s 12AA. As regards the other relevant documents, we have to request your Honor to kindly give a fortnights time, as the negotiations with the landlord, who was locked the office, are going on and we are sanguine about the outcome and hence this request." The*



*appellant has again requested to grant some time for furnishing written submission on 08/07/2023 & 05/08/2023. Finally the appellant has not submitted any written submission. In such condition I have no option but to decide the case on merits on the basis of records available with this office."*

*3. The present appeal is against the order U/s 143(3) r.w.s. 147 of the I.T Act 1961 dated 08/11/2018 for the Assessment Year 2011-12. I have carefully perused the grounds of appeals and the order of the AO already available on record. The appellant has failed to support the grounds raised in this appeal, nor is there any supporting evidence in favour of the appellant. Since, in the instant case the appellant has not been able to show that the making addition of Rs. 37,12,017/- by the AO was arbitrary and without any basis, I find no reason to interfere with the decision of the AO. Hence, appeal filed by the appellant is dismissed."*

5.1 The Ld. counsel for the assessee stated on bar that he could not file submission before the Ld. CIT(A) for the reason that his brother was hospitalized during relevant period when notices were issued by the Ld. CIT(A). The Ld. counsel given undertaking that in case matter is restored back to the file of the Ld. CIT(A), all the notices shall be duly complied. In view of his undertaking and in the interest of substantial justice, we feel it appropriate to restore this issue back to the file of the Ld. CIT(A) for deciding afresh after taking into consideration submission of the assessee. The ground No. 1 and 2 of the appeal of the assessee for assessment year 2011-12 and 2012-13 are accordingly allowed for statistical purposes. Therefore, other grounds raised are not required to be adjudicated upon at this stage.



6. In the result, the appeals of the assessee are allowed for statistical purposes.

**Order pronounced in the open Court on 31/07/2024.**

**Sd/-  
(SUNIL KUMAR SINGH)  
JUDICIAL MEMBER**

**Sd/-  
(OM PRAKASH KANT)  
ACCOUNTANT MEMBER**

Mumbai;  
Dated: 31/07/2024  
Rahul Sharma, Sr. P.S.

**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,  
(Assistant Registrar)  
**ITAT, Mumbai**