

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH
MUMBAI**

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

**ITA No. 2989/MUM/2024
(Assessment Year : 2016-17)**

Rajendra Kumar Chaudhary Green Haritage, C-402, Plot no. 79&80, Sec-20, Kharghar, Raigarh(MH), Navi Mumbai, 410210.	Vs.	Income Tax Officer 41(3)(3) Kautilya Bhavan, C-41 to C-43, G-Block, Bandra Kurla Complex, Bandra East, Mumbai-400051.
PAN/GIR No. AQXPC6319D		
(Appellant)	..	(Respondent)

Assessee by	Shri. Roshan Ochani
Revenue by	Smt. Mahita Nair- Sr. DR
Date of Hearing	01/08/2024
Date of Pronouncement	08/08/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 13.04.2024 passed in Appeal no. NFAC/2015-16/10276608 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.] 2016-17, wherein learned CIT(A) has

dismissed assessee's first appeal for want of bank statements and other details.

2. The brief fact state that the assessee filed return of income on 08.03.2017 for the A. Y. 2016-17, declaring total income of Rs. 3,67,560/-. Revenue department received information that a group of 6 persons purchased various properties for total consideration of Rs. 9,60,30,000/- and the assessee was one of the vendee and had a share of 15%, the revenue noticed that the income chargeable to tax to above extent escaped assessment. Notice u/s. 148 was issued. Assessee filed his return in compliance thereof on 04.08.2022. Statutory notices u/s. 143(2) and 142(1) of the Act were issued and served upon the assessee. After considering the submissions of the assessee, learned AO made an addition of Rs. 1,01,84,500/- u/s. 69 of the Act. Aggrieved by the assessment order, assessee filed an appeal before learned CIT(A), who dismissed assessee's appeal for want of bank statement/details.
3. Aggrieved by the impugned order passed by learned CIT(A), assessee filed this appeal before the Tribunal on the ground that the bank statements and the other details were not submitted by the assessee, within two working days time sought by the assessee.
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 representative on behalf of both the parties.

6. Learned representative for the assessee has submitted that assessee submitted the required bank statements and other required details before learned CIT(A) on 03.04.2024. However, learned CIT(A) has hurriedly passed impugned order on 13.04.2024 without taking aforesaid material into consideration and without giving sufficient opportunity of hearing to the appellant. Prayed to set aside the impugned order.
7. Learned DR has supported the impugned order.
8. Perusal of point no. xii & xiii of the operating part of the impugned order, read as under:

“
xii. *The appellant assessee in its submissions has stated that, "We are also in process of filing details pertaining to addition made amounting to Rs.68,69,500/-, Kindly grant us time period of 2 working days."*

The appellant assessee has asked to grant 2 working days' time to file its further submissions but no submissions have been filed by the appellant assessee till date. This Appellate authority has provided sufficient time to the appellant assessee for filing its further submissions and no further delay is justified.

xiii. Further, this Appellate authority had issued two hearing notices u/s. 250 of the Income-tax Act, 1961 dated 12.03.2024 [DIN: ITBA/NFAC/F/APL_1/2023-24/1062448613(1) and dated 20.03.2024 [DIN: ITBA/NFAC/F/APL_1/2023-24/1062973225(1)] as an opportunity to be heard. However, till the date of finalisation of this order no further submissions were made by the appellant ie: the Bank statement as referred in point no.- (ix) or the details mentioned at point no.-(xi) above for which it had sought time of only two working days. Thus, despite it being several days now, it is understood that, the appellant has nothing further to say or submit.

Thus, in the view of the above facts and discussions from point no.-(i) to (xii), the addition made by the Assessing officer amounting to Rs 1,01,84,500/- u/s 69rws115BBE of the Income- Tax Act, 1961, is UPHeld. The ground of appeal of the appellant is not accepted.....”

9. The assessee has filed photo copy of ‘e-proceedings response acknowledgement’ which shows that the required details and informations were filed by the assessee on 03.04.2024

through electronic channel. We notice that the impugned order was passed on 13.04.2024 after required details, were uploaded on 03.04.2024 on the revenue's portal. The uploaded material has not been considered by learned CIT(A). In the circumstances and in the interest of justice and fair play, we deem it just and appropriate to remit the matter back to the file of learned CIT(A) for denovo adjudication on merit after taking assessee's aforesaid details into consideration. 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.

10. In the result, the appeal is allowed. Impugned order dated 13.04.2024 is set aside. The case is restored back to the file of the learned CIT(A) for statistical purposes.

Order pronounced on 08.08.2024.

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Mumbai; Dated 08/08/2024
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