

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH MUMBAI

**BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 3165/MUM/2024
Assessment Year: 2013-14**

Shree Lohana Mahaparishad 10 th Khetwadi, 4 th Lane, Khetwadi, Mumbai – 400 004 (PAN : AAATL0114G)	Vs.	Income Tax Officer, Exemption, Ward – 1(4), Mumbai
(Appellant)		(Respondent)

Present for:

Assessee : Shri Aseem Thakkar, CA
Revenue : Shri Manoj Kumar Sinha, Sr.DR

Date of Hearing : 07.08.2024
Date of Pronouncement : 09.08.2024

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, vide order no. ITBA/NFAC/S/250/2023-24/1063062040(1), dated 21.03.2024 passed against the assessment order by the Income Tax Officer, Exemption, Ward- 1(4), Mumbai, u/s. 143(3) r.w.s 147 of the Income-tax Act (hereinafter referred to as the "Act"), dated 24.12.2019 for Assessment Year 2013-14.

2. By ground No.1 and 2 assessee has contested the *ex-parte* order passed by ld. CIT(A) without providing reasonable opportunity of being heard and is against the principles of natural justice. It is also contested that ld. CIT(A) summarily dismissed the grounds owing to non-prosecution which is not in accordance of the provisions of law.

3. At the outset, we note that there is a delay of 23 days in filing the present appeal before the Tribunal for which assessee has placed on record an affidavit along with petition for condonation of delay explaining reasons for the same. Going through these submissions before us, we find it appropriate to condone the delay and take up the matter for adjudication. In respect of ground no. 1 and 2, we perused the order of ld CIT(A) and noted that the appeal of the assessee has been dismissed by observing that multiple opportunities of being heard were provided but assessee failed to respond which led to conclusion that it is not interested in pursuing the appeal.

3.1. From the perusal of the impugned assessment order, it is noted that assessee is a trust which filed its return of income on 30.09.2013, reporting the total income at nil. Case of the assessee was taken up by issuing notice u/s.148, dated 28.03.2019 since the registration u/s.12AA mentioned as "A-2119" was not in tandem with the registration numbers issued by the Department though the assessee had claimed exemption u/s. 11 & 12 which ought to have been disallowed. The ld. Assessing Officer had noted that assessee had declared corpus donation of Rs. Nil and income from other sources of Rs.1,24,67,580/. Against this, it had claimed application of income of Rs.1,24,51,022/- resulting into income at Rs. nil. Assessee had raised objections in the course of assessment proceedings which were

disposed of by the ld. Assessing Officer. Since the assessee could not substantiate claim of exemption u/s. 11 & 12 by establishing its registration u/s.12AA, ld. Assessing Officer completed the assessment by making an addition of Rs.1,24,67,580/-

4. Before us, ld. Counsel for the assessee pleaded for restoration of matter back to the file of ld. CIT(A) for *denovo* meritorious adjudication of the grounds taken at the first appellate stage by giving an assurance that all the necessary and the due compliances shall be met once so remitted.

5. However, Sr. DR objected on the plea so made by the ld. Counsel.

6. Having gone through the orders of the authorities below, in the interest of justice and fair play, we find it appropriate to remit the matter back the file of ld. CIT(A) for *denovo* meritorious adjudication of the grounds taken at the first appellate stage. Since order of ld. CIT(A) is an *ex-parte* order without dealing with the merits of the case. We direct the assessee to be diligent and cooperative in attending the hearings and make its submissions for expeditious and effective disposal of the appeal. It should not seek adjournments unless warranted by compelling reasons.

7. Since the matter is restored to the file of Ld. CIT(A) for meritorious adjudication by passing a speaking order in terms of our observations made hereinabove, we are not expressing any views on the merits of the case so as to limit the appellate procedure before the Ld. CIT(A). The observations herein made by us in remanding the matter back to the file of Ld. CIT(A) will not impair or injure the case of the Revenue nor will it cause any prejudice to the defense/explanation

of the assessee. Accordingly, appeal of the assessee is allowed for statistical purposes.

8. In the result, appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 09 August, 2024

Sd/-
(Pavan Kumar Gadale)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 09 August, 2024

MP, Sr.P.S.

Copy to :

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

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai