

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH MUMBAI

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

**ITA No. 3187/MUM/2024
Assessment Year: 2017-18**

Shree Anandeya Investments Pvt. Ltd., 5 th Floor, New India Centre, 17, Cooperage Road, Mumbai – 400001 (PAN : AABCS7757E) (Appellant)	Vs.	Deputy Commissioner of Income Tax, Circle 1(3)(1), Mumbai (Respondent)
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Present for:

Assessee : Ms. Vidhi Suthar, Advocate
Revenue : Shri Manoj Kumar Sinha, Sr. DR

Date of Hearing : 08.08.2024
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/APL/S/250/2023-24/1062072064(1), dated 06.03.2024 passed against the assessment order by National Faceless e-Assessment Centre, Delhi, u/s. 144 r.w.s. 147 of the Income-tax Act (hereinafter referred to as the "Act"), dated 29.03.2022 for Assessment Year 2017-18.

2. Grounds taken by the assessee are reproduced as under:

“1. The Ld. CIT (A) has erred dismissing the appeal and thereby confirming the addition of Rs. 1,72,90,500/- made by the A.O. vide assessment order passed u/s. 147 r.w.s. 144, 144B of the Act.

2. The Ld. CIT (A) has erred dismissing the appeal and thereby confirming the addition of Rs. 1,72,90,500/- made by the A.O. vide assessment order passed u/s. 147 r.w.s. 144, 144B of the Act.

3. The order passed by the Ld. CIT(A) is in violation of principles of natural justice, without application of mind and bad in law.

4. The order passed by the A.O. is in violation of principles of natural justice, bad in law and without jurisdiction.

5. The appellant craves leave to add to, amend, alter or delete all or any of the foregoing grounds of appeal.”

3. There is a delay of 40 days in filing this present appeal before the Tribunal for which petition of condonation of delay is placed on record. It is stated by the assessee that the primary email address of the assessee is fahim.shaikh98@gmail.com. However, notices fixing the date of hearing were sent by the ld. CIT(A) on the email ID kapilvira@hotmail.com which actually belonged to the Director of the assessee company, who had turned hostile. Because of this communication gap, assessee could not make its effective representation leading to the *ex-parte* dismissal of the assessee. Assessee has placed on record screen shots of the portal of the Department to demonstrate the facts relating to the said email IDs. On getting the knowledge of impugned order passed when the recovery proceedings were initiated, necessary steps were taken to file the appeal resulting into the delay. Considering the facts as submitted by the assessee, we find it appropriate to condone the delay and take up the matter for adjudication.

4. Pursuant to ground no.4 taken by the assessee relating to violation of principles of natural justice, we perused the order of Id. CIT(A) to note that there were five occasions when the matter was fixed for hearing and none of them was complied with. This non-compliance by the assessee led to the conclusion that assessee is not aggrieved with the assessment order and is not interested in persuading the same at the first appellate stage. Accordingly, the appeal of the assessee was dismissed.

5. We also note that impugned assessment order is passed u/s. 144 r.w.s. 147 owing to no compliance at the end of the assessee. The conduct of assessee reflects habitual behaviour in responding to the notices of the authorities below and then subsequently filing the appeals for the redressal of the same, by taking recourse to violation of principles of natural justice. Conduct of the assessee seems to be casual making all the compliances of filing the appeals at the appropriate forums, which appears to be pseudo compliance in nature.

6. Despite the aforesaid habitual behaviour of the assessee at all the stages of various proceedings, considering the facts on record, we find it appropriate, in the interest of justice and fair play to remit the matter back to the file of CIT(A) for *denovo* meritorious adjudication. We direct the assessee, to be diligent in attending the hearings fixed for the appeal and assist in its expeditious and effective disposal. Assessee should not seek adjournments unless warranted by compelling reasons.

7. 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