

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH  
MUMBAI  
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER  
ITA No. 3257/MUM/2024  
(A.Y.2013-14)

Laxmi Govind Kulkarni C/o Sunil Mansinghani, 503, 5 <sup>th</sup> Floor, SV Road, Opp Poddar International School, Khar(West) Mumbai -400052.	Vs.	ITO – 41(1)(2), Kautilya Bhavan, BKC 4 <sup>th</sup> Floor, Bandara (East), Mumbai -51.
PAN/GIR No. AMNPK1891J		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
Assessee by	Shri Ruturaj Gurjar.AR	
Revenue by	Shri Manoj Kumar Sinha, Sr. DR	
सुनवाई की तारीख/Date of Hearing	08.08.2024	
घोषणा की तारीख/Date of Pronouncement	09.08.2024	

**ORDER**

**PER PAVAN KUMAR GADALE, JM:**

The appeal is filed by the assessee against the order of National Faceless Appeal Centre (NFAC), Delhi / CIT(A) passed u/sec 144 r.w.s 147 and u/sec 250 of the Act. The assessee has raised the following grounds of appeal:

*1 The Ld AO has erred in reopening the assessment for AY 2013-14 as the same is time barred by limitation & hence void ab-intio, thereby making the assessment itself bad-in-law.*

*2) Without prejudice to the above, the National Faceless Assessment Unit (NFAC) has erred in upholding the*

*disallowance of Rs.134,73,31,130/- u/s 69 of the Act Without providing proper opportunity to the appellant and also without appreciating the fact that The Ld AO merely added the sell consideration as per information received. The appellant had disclosed sell as well as purchases made during the year but the Ld AO failed to consider the purchase transactions while making the assessment and thereby making a huge addition of Rs. 134,73,31,130/- against claimed business loss of Rs. 16,29,793/- in the Return of Income filed in reply to notice u/s 148 of the Act.*

*3) Further & Without prejudice to above, both the lower authorities did not give proper opportunity to represent the case of the petitioner and therefore both, the order of the Appellant authority & assessment order are required to be squashed & set aside.*

*4) The Appellant craves leave to add, alter or amend the above grounds of appeal.*

2. The brief facts of the case that, the assessee is an individual and the Assessing Officer (A.O) has received the information that the assessee has made various transactions in the equity market and has not filed the return of income for the A.Y 2013-14. Therefore the AO has reason to believe that the income has escaped assessment and issued notice u/sec148 of the Act and in response, the assessee has filed the return of income. Further the AO has issued notice u/sec 143(2) and u/sec 142(1) of the Act and there was no proper compliance, since, the assessee could not file the details in spite of providing adequate opportunity of hearing. As per

information available, the AO invoked the provisions u/sec 144 of the Act and made addition of Rs.134.73 Crores under section 69 of the Act of Act treating the entire amount as unexplained investments and assessed the total income and passed the order u/sec144 r.w.s 147 of the Act dated 18.05.2023.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and has issued notices of hearing and since there was no compliance by the assessee to notices.. Therefore the CIT(A) considering the information on record has confirmed the action of the A.O and dismissed the appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld. AR submitted that the CIT(A) has erred in not considering the submissions of the assessee in the assessment proceedings. The Ld.AR emphasized that the assessee has good case on merits with supporting evidences which goes to roots of the case and play a vital role in the decision making and prayed for an opportunity to substantiate before the lower

authorities. Per Contra, the Ld. DR relied on the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no compliance nor appearance in spite of providing adequate opportunity of hearing and the notices were issued. Therefore, the CIT(A) was of the opinion that the assessee is not interested in prosecuting the appeal and dismissed the appeal ex-parte confirming the action of the assessing officer. The Ld. CIT(A) has issued the notices of hearing on various dates but there was no response and thus the Ld.CIT(A) came to a conclusion that the assessee is not interested and decided the appeal based on the information available on record. Whereas the assessee has raised grounds of appeal challenging the additions made by the A.O and there could be various reasons for non appearance which cannot be overruled. Therefore, considering the facts and principles of natural justice, we shall provide with one more opportunity of hearing to the assessee to substantiate the case with evidences and information subject to payment of cost of Rs.5000/- to the Income Tax Department within one month from the date of receipt of the order and produce the proof of payment. Accordingly, set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh and the assessee should be provided adequate

opportunity of hearing and shall cooperate in submitting the information for early disposal of the Appeal. Accordingly, we allow the grounds of appeal of the assessee for statistical purposes.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 09.08.2024

Sd/-  
**(GIRISH AGRAWAL)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

Mumbai, Dated: 09/08/2024

KRK

**Copy of the Order forwarded to:**

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,  
(Dy./Asstt. Registrar)ITAT,  
Mumbai