

IN THE INCOME TAX APPELLATE TRIBUNAL “G” BENCH, MUMBAI

**BEFORE MS. KAVITHA RAJAGOPAL, JM AND
SHRI GIRISH AGRAWAL, AM**

ITA No. 497/Mum/2023
(Assessment Year: 2014-15)

Sadhana Sunil Kadadekar A 303, Mahesh Darshan, New Link Road, Kandarpada, Dahisar West, Mumbai-400 068	Vs.	ITO, Ward 34(3) Ayakar Bhavan, M. K. Road, Mumbai-400 020
PAN/GIR No. AUBPK 6612 P		
(Assessee)	:	(Respondent)
Assessee by	:	Shri Dipesh Ruparelia
Respondent by	:	Shri Rajesh Meshram
Date of Hearing	:	12.08.2024
Date of Pronouncement	:	14.08.2024

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals)-250 ('Id.CIT(A) for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2014-15.

2. The present appeal has been filed with a delay of 370 days for which the assessee had filed an Affidavit along with the application for delay of condonation. On perusal of the same, we deem it fit to hold that there was sufficient cause for the said delay and, hence, the delay is condoned.

3. During the appellate proceeding, the learned Authorised Representative ('Id. AR' for short) for the assessee submitted that the said appeal was filed erroneously in the name of the assessee instead of filing the appeal in her husband's name Shri Sunil Kadadekar in whose name the impugned assessment order dated 28.11.2016 was passed by the Id. Assessing Officer ('A.O.' for short). The Id. AR further contended that the assessee's husband Shri Sunil Kadadekar filed his return of income under his PAN: AGFPK3188G declaring total income at Rs.39,09,810/- who subsequently filed a revised return on 04.03.2015, declaring total income at Rs.27,18,676/-. The assessee's husband is an employee of a public sector company, i.e., Oil & Natural Gas Limited (ONGC for short) in whose case the Id. A.O. initiated the scrutiny assessment. The assessment order was passed by the Id. A.O. making an addition on the employer's contribution to post retirement benefit scheme as perquisite in the hands of Shri Sunil Kadadekar. It is observed that against the impugned assessment order, an appeal was filed before the first appellate authority erroneously in the name of the present assessee in her PAN: AUBPK 6612 P and the first appellate authority had dismissed the appeal which was filed in the name of this assessee.

4. The assessee is in appeal before us, challenging the impugned order of the Id. CIT(A).

5. The learned Departmental Representative ('Id.DR' for short) had nothing to controvert on the fact that the assessment order was passed in the wrong assessee's name.

6. Having heard the rival submissions and perused the material available on record. It is observed that the assessment order was passed in the name of the husband of this assessee Shri Sunil Kadadekar who was an employee of ONGC. The Id. CIT(A) has erroneously passed the order holding that this assessee was an employee of ONGC and had received salary income during the year under consideration. The Id. AR for the assessee has also failed to file revised Form No. 35 before the first appellate authority. On this factual note, we hold that the order of the Id. CIT(A) passed in the name of the wrong assessee who was neither assessed by the Id. A.O. nor was the assessment order passed in her name, is dismissed as infructuous. It is also pertinent to point out that the Id. AR had given a statement at the bar that another appeal in assessee's husband's name who is the actual assessee in this case is filed before the Id. CIT(A) which is pending adjudication. We, therefore, deem it fit to allow the present appeal filed by this appellant by holding that this order does not have a bearing on the actual appeal filed by the assessee's husband and the Id. CIT(A) is directed to decide the issue raised by Shri Sunil Kadadekar on the merits of that case.

7. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 14.08.2024

Sd/-

(Girish Agrawal)
Accountant Member

Mumbai; Dated : 14.08.2024

Roshani, Sr. PS

Sd/-

(Kavitha Rajagopal)
Judicial Member

Copy of the Order forwarded to :

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

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai