

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "E", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.3640/M/2023
Assessment Year: 2012-13**

Ms. Tara Dayalal Jain 13/15, Room No.20, 2 nd Floor, Anantwadi, Bhuleshwar, Maharashtra-400 002 PAN: ADZPJ4893N	Vs.	ITO-23(3)(7), Mumbai, Presently Jurisdiction with ITO-23(3)(6), 6 th Floor, Piramal Chambers, Lalbaug, Mumbai Maharashtra
(Appellant)		(Respondent)

Present for:

Assessee by : Ms. Samruddhi Tawde, A.R.
Revenue by : Shri P.D. Chougule, (Addl. CIT) Sr. DR.

Date of Hearing : 07 . 08 .2024
Date of Pronouncement : 13 . 08 .2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 11.08.2023, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2012-13.

2. In the instant case, the Assessing Officer (AO) vide order dated 09.12.2019 u/s 143(3) r.w.s 147 of the Act, determined the total income of the Assessee to the tune of Rs.36,97,900/- as against Rs.9,39,900/- as declared by the Assessee. The AO has also made the addition of Rs.27,58,000/- on account of unexplained investment qua

purchase of flat u/s 69 of the Act and added the same to the income of the Assessee. The Assessee though challenged the reopening of the case u/s 147 of the Act and the aforesaid addition before the Ld. Commissioner, however, in spite of sending various notices, neither appeared nor filed any adjournment and therefore in the constrained circumstances, the Ld. Commissioner decided the appeal of the Assessee as ex-parte and ultimately dismissed the same and consequently affirmed the aforesaid addition.

3. We observe that the first appeal before the Ld. Commissioner was instituted on 14.01.2020 and first notice for due compliance was sent on 21.01.2021 for 19.04.2021 admittedly during the Covid-19 period and thereafter for two and a half years nothing has happened and subsequently in June and July 2023 the notices were sent to the Assessee, however, the Assessee failed to comply with the notices and therefore the Assessee do not deserve any leniency. However considering the peculiar facts and circumstances of the case, as in the absence of the relevant documents/reply, the issue involved in the instant appeal remained to be adjudicated in its right perspective and true sense and even otherwise the Assessee's appeal at the initial stage was fixed during the Covid-19 period and thereafter there was a long gap of two and a half years, we, for the just decision of the case and for substantial justice, are inclined and therefore remanding the instant case to the file of the Ld. Commissioner for decision afresh, suffice to say by affording reasonable opportunity to the Assessee to substantiate her claim.

4. We also direct the Assessee to cooperate with the appellate proceedings and to file the relevant submissions/documents which would be essential and required by the Ld. Commissioner for proper adjudication of the case. We clarify that in case of further default the Assessee shall not be entitled for any leniency.

5. Thus, the case is remanded to the file of Ld. Commissioner accordingly.

6. In the result, the appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced in the open court on 13.08.2024.

**Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.