

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "A" BENCH : MUMBAI

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER
AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER

ITA No.	A.Y.	Appellant	Respondent
1767/Mum/24	2010-11	Income Tax Officer- 19(1)(1), 5 th Floor, Piramal Chambers, Lalbaug, Mumbai	Ansuya Ashchandra Jhaveri, (Through Legal Heir) 4, Mulchand Bhuwan, Walkeshwar Road, Walkeshwar, Mumbai PAN: ACZPJ1621P
1768/Mum/24			
		For Assessee :	NONE
		For Revenue :	Shri Manoj Kumar Sinha, Sr.DR
		Date of Hearing :	14-08-2024
		Date of Pronouncement :	14-08-2024

ORDER

PER BENCH :

Both these appeals of the Revenue are directed against the order passed by the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (in short 'Ld.CIT(A)') and both relate to AY. 2010-11. ITA No. 1767/Mum/2024 is related to quantum assessment proceedings and other appeal relates to penalty u/s. 271(1)(c) of the Income Tax Act, 1961 ('the Act').

2. None appeared on behalf of the assessee. We also noticed that notice of hearing to the assessee sent by the Registry by Regd. Post has been returned un-served.

3. The Ld.DR submitted that the assessee did not appear before the AO also. The Ld.DR further submitted that the Ld.CIT(A) has violated

the provisions of Rule 46A of the Income Tax Rules, 1962 ('the Rules') by admitting explanations which were never offered before the AO.

4. The addition related to consideration received by the assessee on a property transaction, which was not offered to tax. Before the Ld.CIT(A), the assessee took a different stand and submitted that the impugned amounts were received on lease of properties and hence, there was no tax incidents thereon. The Ld.CIT(A) did not confront the same with the AO and thus, violated the provisions of Rule 46A. The Ld.CIT(A) accepted the contentions of the assessee and accordingly deleted the additions made by the AO. Since the addition made in the quantum proceedings was deleted, the Ld.CIT(A) deleted the penalty levied u/s.271(1)(c) of the Act. The Ld.DR contended that all the issues should be restored to the file of the AO since the Ld.CIT(A) did not take a remand report from the AO.

5. We find merit in the above said contentions of the assessee. Since there is violation of Rule 46A, we are of the view that all the issues contested by the Revenue should be restored to the file of the AO for examining them afresh. Accordingly, we set aside the order passed by the Ld.CIT(A) in both these appeals and restore all the issues to the file of the AO for examining them afresh. We also direct the assessee to fully co-operate with the AO for expeditious completion of the restored proceedings.

6. In the result, both the appeals filed by the Revenue are treated as allowed for statistical purposes.

Order pronounced in the open court on 14th August, 2024

Sd/-
[ANIKESH BANERJEE]
JUDICIAL MEMBER

Mumbai, Dated: 14-08-2024

TNMM

Sd/-
[B.R. BASKARAN]
ACCOUNTANT MEMBER

Copy to :

1.	The Appellant
2.	The Respondent
3.	The Pr. CIT, Mumbai concerned
4.	D.R. ITAT, "A" Bench, Mumbai.
5.	Guard File.

//By Order//

//True Copy //

Dy./Asst. Registrar,
ITAT, Mumbai