

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 1233/Bang/2024
Assessment Year : 2014-15

Smt. Nasima Farooq Sundka Nasima Yusuf Siwani, No. 315, 8 th Cross, Lakshmi Road, Shanthinagar, Bengaluru – 560 027. PAN: AAIPG4271G	Vs.	The Income Tax Officer, Ward – 7(2)(2), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Ms. Lakshmi .S, Advocate
Revenue by	:	Shri Sreenivasa Karthik Devara, JCIT-DR

Date of Hearing	:	07-08-2024
Date of Pronouncement	:	14-08-2024

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal arises out of order dated 14.05.2024 passed by NFAC, Delhi for A.Y. 2014-15.

2. At the outset, the Ld.AR submitted that the order passed by the Ld.CIT(A) is an ex-parte order since assessee did not get

opportunity to represent its case. It is submitted that the first 3 notices issued to the assessee was during the covid period and thereafter four notices were issued during 2024 which the assessee could not receive due to the change of the auditor. The assessee has filed an affidavit to that effect explaining the circumstances which is scanned and reproduced as under:



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Certificate No.	: IN-KA79936403028979W
Certificate Issued Date	: 06-Aug-2024 12:27 PM
Account Reference	: NONACC (FI)/ kabacsl08/ HIGH COURT/ KA-SV
Unique Doc. Reference	: SUBIN-KAKABACSL0812541791408150W
Purchased by	: NASIMA FAROOK SUNDKA NASIMA YUSUF SIWANI
Description of Document	: Article 4 Affidavit
Property Description	: AFFIDAVIT
Consideration Price (Rs.)	: 0 (Zero)
First Party	: NASIMA FAROOK SUNDKA NASIMA YUSUF SIWANI
Second Party	: NA
Stamp Duty Paid By	: NASIMA FAROOK SUNDKA NASIMA YUSUF SIWANI
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)










BEFORE THE HON'BLE INCOME TAX APPELLATE TRIBUNAL
BENGALURU BENCH, BENGALURU

In the matter of ITA No. 1233/BANG/2024

Nasima Farooq Sundka
Nasima Yusuf Siwani,
Bangalore

Income Tax Officer
Ward - 7(2)(2)
Bangalore

(APPELLANT)

v.

(RESPONDENT)

AFFIDAVIT

I, Nasima Farooq Sundka Nasima Yusuf Siwani, W/o Mohamed Omar Farook, aged about 60 years, residing at #315, 8th cross, Lakshmi Road, Divyashree Chambers, Shantinagar, Bengaluru South, Bengaluru - 560027, the appellant do solemnly affirm and state on oath as follows:

1. That I am the Appellant in the Appeal No. 1233/BANG/2024 filed against the order u/s 250 of the Income Tax Act, 1961, dated 14/05/2024.
2. That the Appellant could not appear before the Hon'ble Commissioner of Income Tax (Appeals) for the reason that there was a change in the concerned auditor. Therefore, the submissions could not be made within the time specified.
3. That the Appellant humbly submitted that the order was Ex-parte before Hon'ble Commissioner of Income Tax (Appeals). The Appellant undertakes to appear with necessary documents if the matter is remitted back for fresh consideration.



Nasima Farooq

4. That what is stated in the paragraphs 1-3 above are true and correct to the best of my knowledge, information and belief.

Dated this 06th day of August 2024, Bengaluru


Lakshmi S
Identified by me

Number of Corrections:

Neha Sarathy
DEPONENT

SWORN TO BEFORE ME

K. Ramegowda
K. RAMEGOWDA
M.A., LL.B.
ADVOCATE & NOTARY PUBLIC
GOVT. OF INDIA
Reg. No. 12359
22/1, 5th Cross, S.R.K. Indian School Road
Hanumaiah Layout, Kodigehalli,
BENGALURU - 560 092.



06 AUG 2024

2.1. He prayed that the assessee was under a bonafide belief that, the notices were attended by the erstwhile auditor. He thus prayed that there is no malafide intention attributable to the assessee in non-appearance. The Ld.AR thus prayed for the appeal to be remanded to the Ld.CIT(A) to be considered on merits.

2.2. On the contrary, the Ld.DR though vehemently opposed the submission was of the opinion that the issues should be decided on merits.

We have perused the submissions advanced by both sides in the light of records placed before us.

3. From the affidavit filed by the assessee, it is noted that there does not arise any malafide intention on behalf of the assessee in not appearing before the Ld.CIT(A). In the interest of justice, we deem it appropriate to remand this issue back to the Ld.CIT(A). Needless to say that proper opportunity of being heard must be granted to assessee and the Ld.CIT(A) shall pass a detailed order on merits after considering the submissions of the assessee.

3.1. Accordingly, the appeal is remanded to the Ld.CIT(A) to pass an order to decide the merits of the case by passing a detailed order.

Accordingly, the grounds raised by the assessee stands partly allowed for statistical purposes.

In the result, the appeal filed by the assessee stands partly allowed for statistical purposes.

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

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 14th August, 2024.
/MS /

Copy to:

1. Appellant
3. CIT
5. Guard file

2. Respondent
4. DR, ITAT, Bangalore
6. CIT(A)

By order

Assistant Registrar,
ITAT, Bangalore