

**IN THE INCOME TAX APPELLATE TRIBUNAL
"K(SMC)" BENCH, MUMBAI**

**SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 3130/MUM/2024
(Assessment Year: 2018-19)**

Parul Samir Shah,

7, 391/b Barsana Building, Shankar Matham
Road, Matunga (C.R.)
Mumbai - 400019
[PAN: AMJPS9893E]

..... **Appellant**

ITO, Ward 20(2)(1),

Piramal Chambers, Dr SS Rao Marg,
Parel, Mumbai - 400012

Vs

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Sanjay R. Parikh
For the Respondent/Department : Shri Rajesh Pardeshi

Date

Conclusion of hearing : 06.08.2024
Pronouncement of order : 19.08.2024

ORDER

Per Rahul Chaudhary, Judicial Member:

1. By way of the present appeal the Assessee has challenged the order, dated 12/04/2024, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'the **CIT(A)**'] for the Assessment Year 2018-19, whereby the Ld. CIT(A) had dismissed the appeal the Assessee against the Assessment Order, dated 10/03/2021, passed under Section 143(3) read with sections 143(3A) & 143(3B) of the Income Tax Act, 1961 (hereinafter referred to as 'the **Act**').
2. The Assessee has, inter alia, raised the following grounds of

appeal:

"Ground 1: Validity of Appeal Proceedings"

1. *The Hon'ble CIT(A) erred in not giving an opportunity of being heard to the Appellant before dismissing the appeal, thereby violating the principle of natural justice.*
 2. *The Hon'ble CIT(A) has failed to understand that the appellant being an housewife and not having enough technological knowledge was unable to respond to hearing notice issued online on Income Tax Portal.*
 3. *The learned CIT(A) erred in law and facts in dismissing the appeal filed by your appellant on the ground that the appellant was not aggrieved with the assessment order impugned herein and is not interested in persuading the same instead of deciding the case on merits.*
 4. *Your appellant prays that the matter may please be restored to the Hon'ble CIT(A) for deciding the case on merits.*
3. We have heard both the sides on the above ground and perused the material on record. On perusal of the impugned order, dated 12/04/2024, passed by the CIT(A) under Section 250 of the Act we find that the CIT(A) has not adjudicated the appeal on merits and has dismissed the same observing that the appellant was not interested in pursuing the appeal. As per provisions contained in Section 250 of the Act, whether an assessee appears before the CIT(A) or not, it is the statutory obligation of the CIT(A) to dispose of an appeal on merits. Section 250(6) of the Act lays down that the order passed by the CIT(A) shall be in writing and shall state the points for determination; the decision thereon; and the reason for the decision. [*Marvel Industries Limited Vs. Deputy Commissioner of Income Tax, Circle 2(2)(2), Mumbai, dated 19/07/2022, ITA No. 779/Mum/2022*]. The scheme of Section 250 of the Act does not visualize any situation in which an appeal can be summarily dismissed by the CIT(A) disregarding the material on record. Therefore, in view of

the aforesaid, we hold that the order, dated 12/04/2024, passed by the CIT(A) is not sustainable in law as the CIT(A) was required to decide the appeal on merits. Accordingly, order dated 12/04/2024, passed by the CIT(A) is set aside and the appeal is restored back to the file of CIT(A) for denovo adjudication as per law.

4. In terms of above, Ground No. 1 is allowed for statistical purposes while all the other grounds raised in the appeal are dismissed as being infructuous.
5. In result, in terms of paragraph 4 above, the present appeal is allowed for statistical purposes.

Order pronounced on 19.08.2024.

Sd/-
(Narendra Kumar Billaiya)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 19.08.2024
Poonam Mirashi,
Stenographer

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT,
Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai