

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

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

**ITA No. 2507/MUM/2023
(Assessment Year: 2012-13)**

Ashok Gupta (HUF)

702, Concord CHS, NS Road No. 10, JVPD
Scheme Juhu Circle, Vile Parle (West),
Mumbai- 400049
[PAN: AAAHA4357A]

..... **Appellant**

Ward 34(1)(1),

Aaykar Bhavan, Mumbai - 400020

Vs

..... **Respondent**

Appearance

For the Appellant/Assessee : None
For the Respondent/Department : Shri Rajesh Pardeshi

Date

Conclusion of hearing : 07.08.2024
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 16/05/2023, 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 2012-13.
2. When the appeal was taken for hearing, none was present on behalf of the Appellant. On perusal of impugned order, dated 16/05/2023, passed by the CIT(A) under Section 250 of the Act we find that the CIT(A) has not adjudicated the appeal of the Appellant on merits. 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). Therefore, in view of the aforesaid, the order, dated 16/05/2023, 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. We note that despite several opportunities having been granted, the assessee failed to file written submissions and/or place on record relevant documents before the CIT(A). The assessee is directed to pursue the appeal diligently and not to seek adjournments unnecessarily. It is clarified that in case the assessee fails to enter appearance and file submission/documents before the CIT(A), the CIT(A) would be at liberty to decide the appeal on merits based upon the material on record.

3. In result, in terms of paragraph 2 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