

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

**ITA No.3265/M/2024
Assessment Year: 2018-19**

Mr. Ashok Keshavlal Dhakan, 18, Anuradha, Kastur Park, Borvali West, Maharashtra- 400 092 PAN: AELPD7898E (Appellant)	Vs.	Assessment Unit, National E-Assessment Centre, Mumbai, Maharashtra (Respondent)
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Present for:

Assessee by : Shri Mahesh Rajora, A.R.
Revenue by : Shri Abhirama Karthikeyan, Sr. DR.

Date of Hearing : 13 . 08 . 2024
Date of Pronouncement : 20 . 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 26.04.2024, 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. 2018-19.

2. In this case, the Assessing Officer (AO) vide assessment order dated 29.04.2021 u/s 143(3) r.w.s. 144B of the Act has made the additions of Rs.3,97,528/- and Rs.20,26,658/- respectively on account of income from other sources u/s 56(2)(x)(b)(B) of the Act and other sources u/s 56 of the Act.

3. The Assessee, being aggrieved, though challenged the aforesaid additions before the Ld. Commissioner, however, in spite of sending various notices by the Ld. Commissioner, made no compliance and therefore in the constrained circumstances the Ld. Commissioner decided the appeal of the Assessee by an ex-parte order and consequently dismissed the same for non prosecution but not on merits.

4. The Assessee, being aggrieved, is in appeal before us.

5. We have heard the parties and perused the material available on record. No doubt the conduct of the Assessee seems to be negligent as it appears from the impugned order and therefore the Assessee do not deserve any leniency. However, the Ld. Counsel of the Assessee has submitted that the Assessee is a senior citizen of age about 65 years and living with his wife and mother who is more than 90 years old and is a catena patient and the Assessee do not have any children who can look after the Assessee and his wife and his mother and as the tax consultant did not advise the Assessee to file the relevant documents pertaining to the issue involved in the case before the lower authorities and even otherwise some of the documents were not available at the time of passing of the assessment order, hence the same could not be filed before the AO. However, the present Ld. Counsel has advised the Assessee to file the relevant documents and therefore the Assessee is filing the relevant documents as additional evidence before the Tribunal which are essential and therefore the same may be taken on record to decide the issue in appeal on merits. The Assessee was prevented by reasonable clause in adducing the evidences during the proceedings before the authorities below.

Therefore, the assessee may be provided one more opportunity to substantiate his case.

5.1 We have given thoughtful considerations to the submission of the Assessee. As the Ld. Commissioner failed to decide the issues involved on merits and therefore considering the peculiar facts and circumstances of the case and for just decision of the case and substantial justice, we are inclined to remand 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 his claim before the Ld. Commissioner.

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

7. Thus, the case is remanded accordingly.

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

Order pronounced in the open court on 20.08.2024.

**Sd/-
(OMKARESHWAR CHIDARA)
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.