

**IN THE INCOME TAX APPELLATE TRIBUNAL ‘F’ BENCH, MUMBAI
BEFORE MS. KAVITHA RAJAGOPAL, JM AND SHRI GAGAN GOYAL, AM**

ITA No.1685/Mum/2024
(Assessment Year: 2015-16)

Jatin Manganlal Shah 1501 Tower 3 Ramona Runwal Anthrion, LBS Marg, Mulund (W), Mumbai-400 080	Vs.	Income Tax Officer 41(2)(2) Kautilya Bhavan, BKC, Bandra, Mumbai-400 051
PAN/GIR No. AODPS 8660 R		
(Assessee)	:	(Respondent)
Assessee by	:	None
Respondent by	:	Ms. Rajeshwari Menon
Date of Hearing	:	08.08.2024
Date of Pronouncement	:	22.08.2024

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the *ex parte* order of the learned Commissioner of Income Tax (Appeals) ('ld.CIT(A) for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2015-16.

2. As there was no representation on behalf of the assessee, we hereby dispose of this appeal by hearing the learned Departmental Representative ('ld.DR' for short) and on perusal of the materials available on record.

3. The assessee has raised the following grounds of appeal:

1. *On the facts and circumstances of the case and in law, the ld. CIT(A) erred in passing the order without providing the reasonable opportunity of hearing which is against the principles of natural justice and therefore bad-in-law.*
2. *On the facts and circumstances of the case and in law, the ld. CIT(A) has grossly erred in confirming the action of the A.O. of addition of Rs.42,00,000/- as unexplained investment.*

3. *On the facts and circumstances of the case and in law, the ld. CIT(A) has grossly erred in confirming the action of the A.O. of addition of Rs.27,00,000/- as unproved loan credit.*

4. The brief facts are that the assessee is an individual and had not filed his return of income for the year under consideration on 31.08.2015, declaring total income at Rs.8,39,860/-. The assessee's case was selected for scrutiny under CASS and notices u/s.143(2) and 142(1) of the Act were duly issued and served upon the assessee. The ld. A.O. then passed the assessment order u/s. 143(3) of the Act, determining the total income at Rs.77,39,856/-, after making an addition of Rs.42 lacs on account of unexplained investments in immovable property and Rs.27 lacs on account of unexplained loan credits.

5. The assessee was in appeal before the first appellate authority, challenging the assessment order.

6. The ld. CIT(A) vide order dated 09.02.2024, upheld the order of the ld. A.O. for the reason that inspite of several opportunity the assessee has failed to substantiate his claim and has been non compliant throughout the appellate proceedings.

7. The assessee is in appeal before us, challenging the impugned order of the ld. CIT(A).

8. We have heard the learned Departmental Representative ('ld.DR' for short) and perused the materials available on record. It is observed that the assessee has challenged the additions made by the ld. A.O. before the first appellate authority but has been non compliant during the first appellate proceeding. As the issue has not been decided on the merits of the case by the ld. CIT(A), the assessee has raised a ground on the violation of

principles of natural justice that the assessee was not provided with reasonable opportunity of hearing.

9. The Id. DR vehemently opposed to setting aside the issue to the file of the Id. CIT(A) for the reason that the assessee was given several opportunity by the Id. CIT(A) which was not availed by the assessee.

10. On the above factual matrix of the case, we are of the considered view that the assessee may be given one more opportunity to present his case before the first appellate authority by adhering to the principles of natural justice. We, therefore, remand all these issues back to the file of the Id. CIT(A) for *de novo* adjudication. The assessee is directed to comply with the proceedings without any undue delay on his side.

11. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 22.08.2024

Sd/-
(Gagan Goyal)
Accountant Member

Sd/-
(Kavitha Rajagopal)
Judicial Member

Mumbai; Dated : 22.08.2024

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai