

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "E", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.3125/M/2024
Assessment Year: 2016-17**

Mr. Kishore Haresh Ramchandani, 1102, Tulip A (bldg. no.1), Nisarg Greens, B-cabin road, Ambarnath east, Maharashtra-421501 PAN: BVCPR0716C (Appellant)	Vs.	CIT(A) Income Tax Department, Income Tax Office, Ward 2(2), Wayle Nagar - Khadakpada, Kalyan, Maharashtra-421301 (Respondent)
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Present for:

Assessee by : Ms. Vinita Nara, Ld. A.R.

Revenue by : Shri P.D. Chougule, Ld. Sr. D.R.

Date of Hearing : 08.08.2024

Date of Pronouncement : 23.08.2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the orders dated 29.04.2024, 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. 2016-17.

2. In the instant case, the Assessing Officer (AO) vide order dated 26.03.2022 u/s 147 r.w.s. 144B of the Act has computed the income of Assessee at Rs.1,20,84,700/- as against the declared income of Rs.7,95,340/- and Rs.2,500/- respectively on account of business and from other sources by filing return of income in response to the notice u/s 148 of the Act. The AO also made the addition of Rs.1,12,86,860/- as undisclosed business income on presumptive income u/s 44AD of the Act.

3. The Assessee, being aggrieved, challenged the aforesaid addition before the Ld. Commissioner, who by recording in the impugned order *“that notices or communications were sent to the Assessee on 12.06.2023, 10.04.2024 and 18.04.2024, however, there has been no response from the Assessee till date”*, ultimately dismissed the appeal of the Assessee and affirmed the addition.

4. The Assessee, being aggrieved, is in appeal before us. At the outset, the Ld. Counsel of the Assessee has demonstrated that vide notice dated 18.04.2024 issued by the Ld. Commissioner u/s 250 of the Act, the Assessee was asked to furnish the written submission on or before **30.04.2024**, however, the Ld. Commissioner passed the impugned order on **29.04.2024** itself which is before the date given for filing the written submissions and therefore this is blatant error and dents the authenticity of the impugned order. The Ld. D.R. though supported the impugned order but did not refute the aforesaid claim of the Assessee. Considering the peculiar facts and circumstances in totality and for the just decision of the case and for the ends of substantial justice, we are inclined to set aside the impugned order herein and consequently remanding the instant case to the file of the Ld. Commissioner for decision afresh on merits, suffice to say by affording reasonable opportunity to the Assessee to substantiate his claim.

5. We also direct the Assessee to cooperate with the appellate proceedings and to file the relevant submissions/documents which would be essential and 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.

6. Thus, the impugned order is set aside and case is remanded to the file of Ld. Commissioner accordingly.

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

Order pronounced in the open court on 23.08.2024.

**Sd/-
(RATNESH NANDAN SAHAY)
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.