

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

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

**ITA No.732/M/2024  
Assessment Year: 2014-15**

<b>Ms. Alka Narendra Madhani,</b> Flat No.403, Tulsi Tower, TPS III, 51 <sup>st</sup> Road, Borivali (West), Mumbai, Maharashtra- 400 092 <b>PAN: AJIPM9454B</b>	Vs.	<b>Income Tax Officer,</b> Ward-32(1)(1), Room No.703, 7 <sup>th</sup> Floor, Kautilya Bhavan, Bandra Kurla Complex, Mumbai – 400 051
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Jitendra Singh, A.R.  
Revenue by : Shri R.R. Makwana, Sr. DR.

Date of Hearing : 13 . 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 order dated 21.12.2023, 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. 2014-15.

**2.** In this case, the Assessing Officer (AO) vide assessment order dated 28.12.2016 u/s 143(3) of the Act has computed the income of the Assessee @ Rs.49,57,724/- as against the declared income of Rs.3,48,680/- as declared by the Assessee by filing her return of income on 25.07.2014 and made the addition of Rs.46,09,049/- u/s 43A(3) of the Act and added the same in the total income of the Assessee.

**3.** The Assessee, being aggrieved, challenged the aforesaid addition before the Ld. Commissioner, who as it appears from para No.4 of the impugned order, though afforded 5 opportunities to the Assessee, however, the Assessee made no compliance and therefore in the constrained circumstances, the Ld. Commissioner affirmed the aforesaid addition by dismissing the appeal of the Assessee.

**3.** The Assessee, being aggrieved, is in appeal before us. The Ld. Counsel of the Assessee at the outset has submitted that the Assessee has filed paper book containing 1-25 pages before the erstwhile Ld. CIT(A)-44, Mumbai on 11.04.2019 and he also appeared during the course of appellate proceedings before the Ld. CIT(A) and demonstrated the case in physical hearing and therefore it was presumed by the Assessee that appellate proceedings before the Ld. CIT(A) have been completed and order would come in Assessee's favour in due course of time. However, to the utter shock of the Assessee, the Ld. Commissioner dismissed the appeal of the Assessee by observing that the Assessee did not respond to the notices of hearing which is contrary to the fact and the documents submitted by the Assessee as the Assessee has duly filed the relevant documents

before the erstwhile Ld. CIT(A) and also argued the case through its counsel.

4. On the contrary, the Ld. D.R. supported the impugned order.

5. We have given thoughtful considerations to the peculiar facts and circumstances of the case. At this juncture, we are inclined not to go into controversy, whether the Assessee before the Ld. Commissioner has appeared and filed the relevant documents or not, but considering the fact that the assessment order was passed on 28.12.2016 and the appeal was filed on 27.01.2017 before the Ld. Commissioner, which was taken into consideration only on 12.12.2018 and thereafter after a long gap in November 2019, December 2020, October 2023 and Lastly on 21.11.2023. Therefore, considering the peculiar facts and circumstances in totality and for the just and proper 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 on merits, suffice to say by affording reasonable opportunity to the Assessee to substantiate her claim.**

6. 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 further default the Assessee shall not be entitled for any leniency.

7. Thus, the case is remanded to the file of Ld. Commissioner accordingly.

**8.** 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/-  
(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.