

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

**BEFORE: SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT
MEMBER**

&

SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER

**ITA No. 3185/MUM/2024
(Assessment Year : 2017-18)**

Smt. Ayesha Ishaq Ahmed Mulla 503/603 Duplex Heights CHS Ltd, Yamuna Nagar, Lokhandwala Complex, Andheri West, Mumbai-400053.	Vs.	ITO 16(2)(2), Room No. 467, Aaykar Bhavan, Maharshi Karve Road, Churchgate, Mumbai-400020.
PAN/GIR No. AETPM3445E		
(Appellant)	..	(Respondent)

Assessee by	Shri. Ashwin Chhag
Revenue by	Shri R. R. Makwana – SR DR
Date of Hearing	26/08/2024
Date of Pronouncement	29/08/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 20.09.2023 passed in Appeal no. CIT(A) 5, Mumbai/10087/2019-20 by the Ld. Commissioner of Income-tax(Appeals)/ National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for the

Assessment year [A.Y.] 2017-18, wherein learned CIT(A) has dismissed assessee's first appeal ex-parte.

2. The brief facts under appeal state that the assessee did not file return of income for A.Y. 2017-18. Data revealed that assessee company had made cash deposit of Rs. 10,01,000/- in ICICI Bank A/C. Assessee did not respond to notices u/s. 142(1) of the Act. Considering the assessee's bank details, AO made addition of unexplained money of Rs. 25,87,690/-. Aggrieved by the assessment order, assessee filed an appeal before learned CIT(A), who dismissed assessee's appeal ex-parte.
3. Assessee has filed this second appeal on the ground that learned CIT(A) has erred in making addition of Rs. 25,87,690/- u/s. 69A of the Act, dismissing assessee's appeal ex-parte without affording an opportunity of hearing to the assessee. Further, submitted to condone the delay in filing this appeal.
4. In response to the notice issued by the tribunal, learned DR appeared and participated in the hearing.
5. We have perused the records and heard learned representatives for both the parties.
6. Learned AR has, at the very beginning, requested that the delay caused in filing this appeal may please be condoned. Further submitted that learned CIT(A) has erred in dismissing assessee's appeal ex-parte in violation of the principle of natural justice. Prayed to set aside impugned order and restore the matter back to learned CIT(A) for deciding the cause on merit.

7. Learned DR has submitted that this appeal is also time barred and supported the impugned order passed by the first appellate authority.
8. We notice that this appeal seems to have been filed before this Tribunal on 14.06.2024 against the impugned order dated 20.09.2023 by a delay of over six months. In the interest of justice, we condone the said delay in filing the appeal.
9. Perusal of the impugned order shows that the assessee did not respond to the various notices issued by the first appellate authority. Learned CIT(A) was therefore compelled to pass ex-parte impugned order.
10. We find that the assessee did not turn up before the first appellate authority in response to the various notices, whereas the assessee as a law abiding citizen was expected under the law to respond to the call of the first appellate authority and make her submissions to obtain order on merit. However, in the interest of justice and fair play, we deem it just and appropriate to afford last opportunity to the assessee and remit the matter back to the file of learned CIT(A) for denovo adjudication on merit. We further direct the assessee to be diligent and cooperative in attending the hearings and making submissions before the first appellate authority for the expeditious and effective disposal of the first appeal. Assessee should refrain from seeking any adjournment but for compelling and unavoidable reasons. Needless to say that learned CIT(A) shall ensure the observance of the principles of natural justice. It is made clear that we have not made any

observation on the merits of the case. The appeal is thus liable to be allowed.

11. In the result, the appeal is allowed. Impugned order dated 20.09.2023 is set aside. The case is restored back to the file of the learned CIT(A) for statistical purposes.

Order pronounced on 29.08.2024.

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai; Dated 29/08/2024
Anandi Nambi, *Steno*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai