

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

**SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 1383/MUM/2024  
(Assessment Year: 2014-15)**

**Vinod Santumal Ahuja,**

BK No 2076, RNo 20, Section 36,  
Ulhasnagar-5, S.O Kalyan,  
Thane - 421005, Maharashtra  
[PAN: AFKPA8112L]

..... **Appellant**

**Deputy Commissioner of Income Tax,  
Circle 1/2, Kalyan**

2<sup>nd</sup> Floor, Mohan Plaza, Wayle Nagar,  
Swananad Colony, Gandhar Nagar,  
Khadakpada, Kalyan (W) - 421301  
Maharashtra

Vs

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Shri Sunil Makhija  
Ms. Manisha Ghind

For the Respondent/Department : Shri Himanshu Sharma

**Date**

Conclusion of hearing : 03.07.2024

Pronouncement of order : 30.08.2024

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. By way of the present appeal the Assessee has challenged the order dated 24/01/2024, passed by the National Faceless Appeal Centre (NFAC), Delhi, [hereinafter referred to as the '**CIT(A)**'] for the Assessment Year 2014-15, whereby the Ld. CIT(A) had dismissed the appeal of the Assessee against the Assessment Order, dated 20/12/2016, passed by the Commissioner of Income Tax (Appeals) under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the **Act**').
2. The Appellant has raised 8 grounds of appeal. When the appeal

was taken up for hearing the Learned Authorised Representative for the Appellant pressed into service Ground No. 1,2 and 6 raised by the Appellant which reads as under:

*Ground No. 1:*

*"The Ld. CIT(A) has erred in passing an order without having appreciated/ considered the submissions filed by appellant thereby having passed the order in violation of principles of natural justice making the same untenable in the eyes of law."*

*Ground No. 2:*

*"The Ld. CIT(A) has erred in overlooking/ignoring the fact placed before him that Hon'ble CIT(A) -3, Thane during the course of personal hearing (ie. before commencement of faceless appellate proceedings) had forwarded a copy of submissions to Ld. JAO calling for the remand report and that the appellant had duly appeared before the JAO in the course of remand proceedings, In spite of which the Hon'ble CIT(A) has passed an appellate order not only without having considered the fact of remand report being pending, but without even having offered a reasonable opportunity of being heard."*

*Ground No. 6:*

*"The Ld. CIT(A) has erred in observing that there was delay in filing of appeal without appreciating the fact and the law i.e. the date of service of order being 10/01/2017 which is to be considered for limitation and not the date of passing of order and that too without having raised any query in respect of the said alleged delay."*

3. The facts, relevant for adjudication of the above grounds, are that Appellant, an individual carrying on business of manufacturing and trading of readymade garments under the name and style of M/s Asha Garments, had filed return of income declaring income of INR 20,63,770/- on 29/11/2014. The case of the Appellant was selected for scrutiny and regular assessment under Section 143(3)

of the Act was framed on the Appellant vide Assessment Order, dated 20/12/2016, at assessed income of INR 40,76,570/- after making the following additions/disallowances: (a) INR 16,92,595/- holding the same to be unproved creditor (b) INR 80,220/- on account of suppression of sales made to Ms/ Kumar Textiles and (c) INR 2,40,000/- being amount of rent paid in cash in violation of provisions contained in Section 40A(3) of the Act.

4. Being aggrieved, the Appellant preferred appeal before the Commission of Income Tax (Appeals) – 3, Thane in physical form challenging the additions/disallowances made by the Assessing Officer, contending, inter alia, that the Assessment Order was passed by the Assessing Officer without giving reasonable opportunity of being heard to the Appellant. The Appellant attended the hearing before Commission of Income Tax (Appeals) – 3, Thane and filed written submissions along with supporting document vide letter dated, 16/11/2018, *[placed at pages 15 to 75 of the paper-book]*. The Appeal filed before Commission of Income Tax (Appeals) – 3, Thane *[bearing No. 3/10708/2016-17]* was subsequently transferred to the CIT(A). Vide order, dated 24/01/2024, the CIT(A), returned findings that the appeal preferred by the Appellant was delayed. Thereafter, the CIT(A) proceeded to reject the ground raised by the Appellant on merits. However, in final conclusion the CIT(A) rejected the appeal stating that delay is not condoned.
5. Being aggrieved by order, dated 21/04/2024, passed by the CIT(A), the Appellant has preferred the present appeal before the Tribunal
6. We have heard both the sides and perused material on record.
7. On perusal of record, we find that the factual averments made by the Learned Authorised Representative for the Appellant are

correct. There is no delay in filing appeal before the CIT(A) since the assessment Order was served on the Appellant on 10/01/2017. The CIT(A) failed to appreciate that the limitation starts running from the date of service of the assessment order on the Appellant. Since appeal before the CIT(A) was filed on 07/02/2023, which falls within a period of 30 days of service of the assessment order, appeal filed before the CIT(A) was not barred by limitation. We also find merit in the contentions advanced on behalf of the Appellant that the CIT(A) had failed to taken into consideration the submissions and supporting documents filed by the Appellant before the Commissioner of Income Tax (Appeals)-3, Thane, from whose jurisdiction the present appeal was transferred to CIT(A). In view of the aforesaid, we set aside the order, dated 24/01/2024, passed by the CIT(A) and restore the appeal back to the file of the CIT(A) for adjudication afresh as per law after granting the Appellant a reasonable opportunity of being heard. The Appellant is directed to file all the relevant documents/details including those filed in physical form before the CIT(A) on receiving notice of hearing. In view of the aforesaid Ground No. 1, 2 and 6 raised by the Appellant are allowed whereas the balance grounds are disposed off as being infructuous.

8. In result, in terms of paragraph 7 above, appeal preferred by the Assessee is allowed for statistical purposes.

Order pronounced on 30.08.2024.

**Sd/-**  
**(Narendra Kumar Billaiya)**  
**Accountant Member**

**Sd/-**  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated : 30.08.2024  
Patil, Sr.P.S.

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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