

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

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

&

SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER

**ITA No. 3363/MUM/2024
(Assessment Year : 2016-17)**

Jitendra Salunke B/4 72, Tenament, Vithhal Chavan Marg, Near Damodar Hall, Parel, Mumbai-400012.	Vs.	Income-tax Officer-42(2)(3) Kautilya Bhavan, Bandra Kurla Complex, Bandra (East), Mumbai-400051.
PAN/GIR No. AVAPS2290K		
(Appellant)	..	(Respondent)

Assessee by	Shri. Poojan Mehta
Revenue by	Shri. R. R Makwana, Sr. DR
Date of Hearing	03/09/2024
Date of Pronouncement	03/09/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 30.04.2024 passed in Appeal no. NFAC/2015-16/10315470 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.] 2016-17, wherein learned CIT(A) has dismissed assessee's first appeal in default of assessee.

2. Briefly stating the facts, that assessee filed his return of income on 29.10.2016 declaring total income of Rs. 2,69,017/- for A.Y. 2016-17. Revenue noticed that assessee understated his income by excluding certain receipts. During the assessment proceedings, assessee did not respond to the show cause notices. Hence, learned assessing officer assessed income u/s. 144 of the Act to the tune of Rs. 4,29,114/-. Aggrieved by the assessment order, assessee preferred an appeal before learned CIT(A), who dismissed assessee's appeal in default of assessee.
3. Assessee filed this second appeal before this Tribunal on the ground that the notices were not sent through NFAC and impugned order has been passed in violation of the principles of natural justice.
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 DR has submitted that assessee was provided sufficient opportunity of hearing by issuance of notices on four occasions by learned CIT(A) but for no avail. Learned DR has supported impugned order passed by the first appellate authority.
7. Perusal of the impugned order shows that assessee filed first appeal with the delay of about 265 days. Learned CIT(A), however condoned the said delay on the basis of reasons stated in form 35. The first appellate authority issued notices to the assessee on four different occasions but for no avail, Hence, the appeal was dismissed in default of the assessee.
8. We notice that learned CIT(A) was expected to state the points for determination, the decision there on and the reasons for the decision as provided u/s. 250(6) of the Act. We are conscious of the fact, that assessee has not turned up before the first appellate authority in response to the notices issued on four different occasions. However, in the interest of justice and fair play, we deem it appropriate to 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 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.

9. In the result, the appeal is allowed. Impugned order dated 30.04.2024 is set aside. The case is restored back to the file of the learned CIT(A) for statistical purposes.

Order pronounced on 03.09.2024.

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai; Dated 03/09/2024
Anandi Nambi, *Steno*

Copy of the Order forwarded to:

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

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai