

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

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

&

SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER

**ITA No. 1389/MUM/2024
(Assessment Year : 2009-10)**

Pramod Smehta HUF 166, 6 th Kumbharwada, 2 nd Floor, Shree Sadan, Office no. 8, Mumbai-400004.	Vs.	ITO, Ward-19(2)(3), Piramal Chambers, Mumbai-400012.
PAN/GIR No. AADHM3866P		
(Appellant)	..	(Respondent)

Assessee by	Shri. Nikhil K. Joshi
Revenue by	Shri. R. R Makwana, Sr. DR
Date of Hearing	04/09/2024
Date of Pronouncement	09/09/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 24.01.2024 passed in Appeal no. CIT(A), Mumbai-30/12185/2015-16 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 2009-10, wherein learned CIT(A) has dismissed assessee's first appeal in default of assessee.

2. Briefly stating the facts, that assessee is running a proprietary firm and deals in the business of trading in Ferrous and Non-Ferrous Metals under the name and style of M/s. Navkar Steel & Engineering and filed his return of income on 27.09.2009 declaring total income of Rs. 6,15,240/- for A.Y. 2009-10. The return was processed u/s. 143(1) of the Act. Further, assessment was completed u/s. 143(3) on 06.12.2011 assessing total income at Rs. 6,53,280/-. On the basis of certain information received for sales department of Maharashtra that some of the dealers have been found indulging in procuring bogus sales/purchase, and the name of the assessee was also found in the list of such persons, provision of section 147 were invoked as the income to the tune of Rs. 2,15,55,290/- was found to have escaped assessment. Notice u/s. 148 of the Act, dated 28.03.2014 was issued and served upon assessee. Subsequently, notice u/s. 143(2) and section 142(1) of the Act were issued and served upon the assessee. Assessee furnished required details before the assessing officer, who assessed total income at Rs. 3347691/-. Penalty proceedings u/s. 271(1)(c) were also initiated separately.
3. Aggrieved by the assessment order, assessee preferred an appeal before learned CIT(A), who dismissed assessee's appeal in default of assessee.
4. This second appeal has been filed before this Tribunal on the ground that learned CIT(A) has erred in upholding the said addition made by the assessing officer.

5. In response to the notice issued by the tribunal, learned DR appeared and participated in the hearing.
6. We have perused the records and heard learned representatives for both the parties.
7. Learned representative for the assessee has at the very outset informed that impugned order has been passed by learned CIT(A) ex-parte in violation of the principles of natural justice. Prayed to set aside the impugned order.
8. Learned DR has submitted that assessee was provided sufficient opportunity of hearing by learned CIT(A) but for no avail. Learned DR has supported impugned ex-parte order passed by the first appellate authority.
9. 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. 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.

10. In the result, the appeal is allowed. Impugned order dated 24.01.2024 is set aside. The case is restored back to the file of the learned CIT(A) for statistical purposes.

Order pronounced on 09.09.2024.

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

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

Copy of the Order forwarded to:

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

//True Copy//

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai