

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

**BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER  
AND  
MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER**

ITA No. 656/Mum/2024  
Assessment Year 2017-18

Ratan Jodharam Harchwani, Block No. C-794, Room No. 1587, Near Netaji High School, Opp: Jai Baba Dham, Ulhasnagar, Thane, Maharashtra PAN : ABQPH2916R	vs.	ACIT, Central Circle-4, Income Tax Office, 2 <sup>nd</sup> Floor, Mohan Plaza Wayle Nagar, Kalyan, Thane, Maharashtra
(Appellant)		(Respondent)

For Assessee :	Shri M. Subramaniam
For Revenue :	Smt. Mahita Nair, Sr.DR

Date of Hearing :	09-09-2024
Date of Pronouncement :	13-09-2024

**ORDER**

**PER OM PRAKASH KANT, A.M :**

This appeal has been preferred by the assessee against the order dated 26-12-2023 passed by the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi [in short Ld.CIT(A)] for the Assessment Year (AY.) 2017-18, raising following grounds:

*“1. On the facts and under circumstances of the case and also in law, the learned C.I.T. (Appeals) is not justified in confirming the cash amount of Rs. 11,66,250/- deposited in the bank account during demonetization period as unexplained cash credits under section 69A of the Income Tax Act, 1961.*

*2. On the facts and under circumstances of the case and also in law, the learned C.I.T. (Appeals) is not justified in confirming the estimation of Commission Income at the rate of 1 percent of credit entries of Rs. 51,35,47,080/- appearing in the Bank Account.”*

2. At the outset, learned counsel for the assessee submitted that the Ld.CIT(A) has decided the appeal *ex-parte* without any finding on the merit and, therefore, the order of the Ld.CIT(A) should be set aside and restored back for deciding afresh.

3. We have heard rival submissions of the parties and perused the relevant material on record. We find that the Ld.CIT(A) had issued three notices dt. 06-01-2021, 07-11-2023 and 29-11-2023. However, all the three notices were not responded by the assessee. Before us, the learned counsel for the assessee filed an affidavit of the assessee, wherein it has been deposed that no notice for hearing was received by the assessee either by post/courier or on the e-mail mentioned in the Form-35. We are of the opinion that despite non-compliance on the part of the assessee, under the provisions of section 250(6) of the Income Tax Act, 1961 (in short ‘the Act’), the Ld.CIT(A) is required to pass order on the merit of the issue raised in grounds of the appeal. Since the Ld.CIT(A) has not decided the issue on merit and dismissed the appeal for non compliance on the part of the assessee in responding the notices, therefore, we feel appropriate to set aside the impugned order of the Ld.CIT(A) and restore the matter back to the file of the Ld.CIT(A) for deciding the issue on merit and pass a speaking and reasoned order on the grounds raised in the appeal. We may also like to mention that in Form-36, the assessee has mentioned another e-mail ID as ‘hiranandandassociates@gmail.com’. Therefore, the Ld.CIT(A) may send notices on both the e-mail IDs; i.e., the e-mail ID mentioned in

Form-35 and the e-mail ID mentioned in Form-36 of the Income Tax Rules, 1962. The grounds raised by the assessee in the appeal are accordingly treated as allowed for statistical purposes.

4. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 13<sup>th</sup> September, 2024

Sd/-  
(MS. KAVITHA RAJAGOPAL)  
JUDICIAL MEMBER

Mumbai,

Date : 13-09-2024

*TNMM*

Sd/-  
(OM PRAKASH KANT)  
ACCOUNTANT MEMBER

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "D" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar  
I.T.A.T, Mumbai