

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "A", MUMBAI  
BEFORE SHRI NARENDER KUMAR CHOUDHARY, JUDICIAL MEMBER AND  
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER

**ITA No. 2856/Mum/2024 (A.Y.2012-13)**

**Aravind Arunachalam Vellore,**  
A 603, Zeel Darshan,  
A. S. Marg near Custom Colony,  
Powai, Mumbai – 400 076  
PAN No. ACMPV9998A

..... Appellant

Vs.

**ITO Ward 26(1) (2)**  
R. No. 304, 3<sup>rd</sup> Floor,  
Kautilya Bhavan, C-41 to C-43,  
G-Block, Bandra East  
Maharashtra -400 051

..... Respondent

Appellant by	:	Shri Bharat Raichand A/W Shri Bhagrati Sahu, Ld. ARs
Respondent by	:	Shri Manoj Kumar Sinha, Ld. DR
Date of hearing	:	23/07/2024
Date of pronouncement	:	02/09/2024

**ORDER**

**PER GAGAN GOYAL, A.M:**

This appeal by assessee is directed against the order of National Faceless Appeal Centre (for short "NFAC") Delhi dated 19.03.2024 passed u/s. 250 of the

Income Tax Act, 1961 (in short 'the Act') for A.Y. 2012-13. The assessee has raised the following grounds of appeal: -

*The appellant above named is filing the present appeal on the following amongst other grounds which are urged herewith without prejudice to one another -*

*1. That on the facts and circumstances of the case, the Learned Commissioner of Income Tax (Appeals) has erred in law and in facts in passing the order under section 250 of the Income tax act 1961 dated 19.03.2024 and adding the income of Rs. 42,53,051/-.*

*2. The Learned Commissioner of Income Tax (Appeals) erred in law and in fact in reopening the assessment under section 147 of the Act by stating the reason to belief as being in order to verify the receipt of commission under section 194H, source of credit card payment and interest under section 194A and further erred in law and in fact to change the reason of belief at the time of objection filed by the appellant;*

*3. The Learned Commissioner of Income Tax (Appeals) erred in law and in fact in not taking into consideration the submission/evidence/documents and the ground of appeal filed by the appellant.*

*4. The Learned Commissioner of Income Tax (Appeals) erred in law and in fact in not taking into consideration the bank statement highlighting the payment paid and making addition of Rs. 10,65,581/- under section 69 of income Tax Act, 1961.*

*5. The Learned Commissioner of Income Tax (Appeals) erred in law and in fact in not taking into consideration that the time deposit of Rs. 10, 75,000/- with HDFC Bank Ltd. relates to financial year 2015-2016 and 2016-17. Therefore, it cannot be added to the income of assessment year 2012-2013.*

*6. The Learned Commissioner of Income Tax (Appeals) erred in law and in fact in making the addition of Rs. 21,12,470/- and not taking into consideration the details provided of commission paid vide reply dated on 17th December 2019. Details of commission paid are as follows.*

Sr. No.	Party Name	Amount
1	Karunanidhi Mehta	1,39,470/-
2	Mathivanan	5,00,000/-
3	Pawan Didwania	7,50,000/-
4	Phi Enterprises	7,50,000/-
5	Pravin Ashok	12,50,385/-

6	Preeti Dokwal	3,36,000/-
7	Rahul Jain	2,94,341/-
8	Ravmdraam	1,37,000/-
	<b>Total</b>	<b>41,57,196/-</b>

7. the appellants crave leave to add, alter, amends and/or rescinds any of the above submission at the time of or before the personal hearing.

8. The appellants crave leave to refer and reply upon any case law and/or Judgement as and when produced.

9. The appellants crave leave to file additional documents/affidavits, if any.

Prayer/Relief Claimed

1. To quash the impugned order dated 19/03/2024 bearing the DIN and Order No. ITBA/NFCA/S/250/2023-24/1062936557 (1) passed by the Ld. CIT (A) and Assessment Order passed U/s. 143(3) of the Act by the Assessing Officer

2. To Consider Net Taxable Income of Rs. 9, 36,520/- as per the revised ITR filed along with Audit Report on 17th December 2019.

3. to delete the addition of Rs. 10, 65,581/- on account of variation in respect of unexplained income u/s. 69A of the Act.

4. to delete the addition of Rs. 21, 12,470/- on account of variation in respect of unexplained expenditure u/s. 69C of the Act.

5. to delete the addition of Rs. 10, 75,000/- on account of variation in respect of unexplained investment u/s. 69 of the Act.

6. to pass such other order / (s) as may be deemed fit in circumstances of the case."

2. The brief facts of the case are that the assessee Individual filed its return of income on 02.01.2014 at Rs. 9, 90,400/-. Case of the assessee was re-opened under section 147 of the Act and a notice was issued u/s. 148 of the Act vide dated: 28.03.2019. In response to this notice the assessee filed his return of income on 08.11.2019 revising his figure of income at Rs. 32, 36,850/-. It was observed by the AO that the assessee earned the income under the head "Income

from Business and Profession” and “Income from Other Sources”. Ultimately, the case of the assessee was assessed at Rs. 74, 89,901/-. The assessee being aggrieved with this order of the AO preferred an appeal before the Ld. CIT(A), who in turn confirmed the order of the AO, *Ex-Parte* as there was no response filed by the assessee on designated date of hearings as demonstrated by the Ld. CIT(A) in his order vide para 5.2 of the Appeal Order. The assessee being further aggrieved with this order of the Ld. CIT (A), preferred the present appeal before us.

3. We have gone through the order of the AO passed u/s. 143(3) r.w.s. 147 of the Act, Order of the Ld. CIT(A) and submissions of the assessee along with grounds taken before us. It is observed that the assessee furnished his e-mail ID as [texopolis@gmail.com](mailto:texopolis@gmail.com) in form no. 35 filed before the Ld. CIT (A) and [piyushbolia@gmail.com](mailto:piyushbolia@gmail.com) in form no. 36 before us. Further the physical addresses as submitted by the assessee in form no. 35 and form no. 36 are also different as IB-204, Raheja Nest CHS, Chandivali Farms Road, Powai, Mumbai – 400 072 and A-603, Zeel Darshan, A S Marg Near Customs Colony, Powai, Mumbai – 400 076 respectively. Whereas the Ld. CIT (A) sent all the notices through the ITBA portal dated: 20.01.2021, 16.04.2023, 17.11.2023, 12.01.2024 and 19.02.2024.

4. In view of the above facts none of the notices were never sent to the e-mail IDs mentioned by the assessee, rather uploaded the same on ITBA portal. We found the assessee also negligent while never gone through his ITBA portal to verify the progress of the matter. On the other hand, the Ld. CIT (A) should have taken cognizance of the e-mail IDs mentioned by the assessee as he knew the assessee is not visiting the ITBA portal, hence there is non-compliance. To make

communication effective and also to make the assessee compliant with the notices issued, the notices mentioned (supra) should have been sent to the e-mail IDs mentioned by the assessee. When a specific column is there in form no. 35 about e-mail ID, in our opinion the Ld. CIT (A) should send notice there also. In nutshell, as there is no effective representation on the matter by the assessee for the reasons mentioned (supra), we deem it fit to restore the matter back to the file of the Ld. CIT (A) with a direction to hear the assessee again after giving a proper opportunity of being heard and issue notices on email IDs provided by the assessee also. The assessee is directed to be vigilant enough in terms of visiting ITBA portal and e-mail ID provided by him in appeal form. The assessee is further directed to be cooperative enough during the proceedings before the Ld. CIT (A) without seeking any adjournment. **In these terms grounds taken by the assessee is allowed for statistical purposes.**

**5. In the result, the appeal filed by the assessee is allowed for statistical purposes.**

Order pronounced in the open court on 2<sup>nd</sup> day of September 2024.

Sd/-

(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER

Mumbai, दिनांक/Dated: 02/09/2024

*Dhananjay, Sr. PS*

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT

Sd/-

(GAGAN GOYAL)  
ACCOUNTANT MEMBER

4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**