

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

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

&

SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER

**ITA No.2424/MUM/2024
(Assessment Year :2012-13)**

Shree Developers, Shop No.18, Neelkanth Pride, Plot No.35/36, Sector 42-A, Nerul, Navi Mumbai - 400706	Ganesh	Vs.	Deputy Commissioner of Income Tax, Circle 28(3), 3 rd floor, Tower no.6, Above Vashi Railway station, Vashi, Navi Mumbai
PAN/GIR No.ABMFS6784Q			
(Appellant)		..	(Respondent)

Assessee by	None
Revenue by	Shri Ajay Kumar Singh, Sr. A.R.
Date of Hearing	16/09/2024
Date of Pronouncement	25/09/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 14.03.2024 passed in Appeal no. CIT(A), Mumbai-26/10165/2015-16 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 [A.Y.] 2012-13, wherein learned CIT(A) has dismissed assessee's appeal in default of the assessee.

2. The brief facts under appeal state that the assessee is engaged in the business of builder and developers and e-filed its return of income for A.Y. 2012-13 on 28.09.2012, declaring total income of Rs. 30,27,110/-. The case was selected for limited scrutiny and notices u/s. 143(2) and 142(1) of the Act were issued and served upon the assessee. Assessee's authorised representative, CA filed the detailed called for by learned Assessing Officer. After considering assessee's submissions, learned Assessing Officer disallowed the payment made towards the expenditure on compensation to the extent of Rs. 84,49,500/- and added back to the income of the assessee. Aggrieved by the assessment order, assessee preferred an appeal before learned CIT(A), who dismissed assessee's first appeal.

3. Assessee has filed this second appeal on the ground that learned CIT(A) has erred in confirming the addition of expenses of compensation of Rs. 84,49,500/- to which assessee was bound to pay to its customers under the terms of contract.

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 representative for the Revenue as none responded for the assessee.

6. Learned DR has supported impugned order.

7. After perusal of impugned order, we notice that it does not reflect as to whether assessee was afforded an opportunity of hearing before passing the impugned order. learned CIT(A) has, though, made reference of assessee's submissions in general but the same are not part of the impugned order. No reasons have been given in the impugned order. There is no due or proper application of mind or any critical analysis or objective consideration in the matter despite the same being first appellate authority. It is well settled in law that the reason is the life of law. It is that filament that injects soul to the order. Absence of analysis not only evinces non-application of mind but also mummifies the core spirit of the order. Learned CIT(A) was expected to state the points for determination, decision thereon and the reasons for the decision as provided u/s. 250(6) of the Act. In the circumstances and in the interest of justice and fair play, we deem it just and appropriate to remit the matter back to the

file of learned CIT(A) for adjudication on merits and to pass speaking order. We direct the assessee to be diligent and cooperative in attending the hearings and making submissions before the learned CIT(A) for the expeditious and effective disposal. 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 in respect of the merits of the case. The appeal is liable to be allowed.

8. In the result, the appeal is allowed. Impugned order dated 14.03.2024 is set aside. The case is restored back to the file of the learned CIT(A) for statistical purposes.

Order pronounced in open court today on 25.09.2024

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Mumbai; Dated: 25/09/2024

Copy of the Order forwarded to :

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

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai