

**IN THE INCOME TAX APPELLATE TRIBUNAL “H (SMC)” BENCH
MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 2793/MUM/2024
Assessment Year: 2017-18**

Jitendra Vallabhdas Sanghavi, 13, Marwadi Chawl, M.G. Road, Ghatkopar East, Mumbai – 400077 (PAN : AZDPS2873H)	Vs.	Commissioner of Income Tax, Circle 27(1), ‘ Mumbai
(Appellant)		(Respondent)

Present for:

Assessee : None
Revenue : Shri Nihar Ranjan Samal, Sr. DR

Date of Hearing : 09.09.2024
Date of Pronouncement : 24.09.2024

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of Ld. CIT(A), Faridabad, vide order no. ITBA/APL/S/250/2024-25/1064474100(1), dated 30.04.2024 passed against the assessment order by Assistant Commissioner of Income Tax, Circle – 27(1), Mumbai, u/s. 143(3) of the Income-tax Act (hereinafter referred to as the “Act”), dated 01.12.2019 for Assessment Year 2017-18.

2. Grounds taken by the assessee are reproduced as under:

“1 On facts and circumstances of the case, and in law, the Hon'ble ADDL/JCIT (A) has erred in confirming the action of the Assessing Officer in passing the order and under section 143(3) merely on the basis of borrowed satisfaction, presumption and surmises, as such the order is unreasonable, arbitrary against principle natural justice, against the provisions of Income Tax Act, 1961 and therefore liable to be quashed.

2 On facts and circumstances of the case, and in law, the Hon'ble ADDL/JCIT (A) has erred in confirming the disallowance made by Assessing Officer under section 57(iii) amounting to Rs.1,11,00,000/- without considering the facts of the case.”

3. Before us, none represented the assessee. However, from the perusal of the order of the ld. CIT(A), we note that it has been passed *ex parte*, since no compliance could be made at the first appellate stage by the assessee. Merits of the case have not been dealt with, while dismissing the said appeal by the ld. CIT(A). Accordingly, we find it appropriate to take up the matter *ex parte qua* the assessee with the able assistance of ld. Sr. DR.

4. Brief facts of the case are that assessee filed his return of income on 31.10.2017 reporting total income at Rs.830/-. In the course of assessment proceedings, ld. Assessing Officer noted that in the assessment order passed u/s. 143(3) for Assessment Year 2014-15, a disallowance of interest attributable to loan advance to M/s. Krypton Investment Consultancy Pvt. Ltd. was made. According to the ld. Assessing Officer, similar facts exist in the impugned year i.e., Assessment Year 2017-18 and therefore a show cause notice was issued asking the assessee, why the interest expense attributable to the loan advance to M/s. Krypton Investment Consultancy Pvt. Ltd. should not be disallowed, amounting to Rs.1,11,00,000/- in the year under consideration. In response to the said show cause notice, assessee made a detailed submission on e-Assessment portal which the ld. Assessing Officer has acknowledged in the assessment order. Ld. Assessing Officer perused the same but did not accept the contentions put forth by the assessee and thus disallowed the interest expense of Rs.1,11,00,000/- as claimed by the assessee, which was added under the head “Income from Other Sources”.

5. Aggrieved, assessee went in appeal before the ld. CIT(A), but failed to attend the dates of the hearing so fixed by the ld. CIT(A), resulting in *ex parte* order of dismissal of the said appeal. Aggrieved, assessee is in appeal before the Tribunal.

6. We have considered the orders of the authorities below and gone through the observations and findings arrived therein. We take note of the fact that assessee had made detailed submissions on the issue raised by the ld. Assessing Officer, fact of which is duly acknowledged in the impugned assessment order. However, no compliance could be made at the first appellate stage.

6.1. Section 250 of the Act provides for procedure to be adopted while disposing of the appeal by the Ld. CIT(A). Sub-section (4) of section 250 of the Act provides that the Ld. CIT(A) may, before disposing of any appeal, make such further inquiry as he thinks fit, or may direct the Assessing officer to make further inquiry and report the result of the same to the Commissioner (Appeals). Further, sub-section (6) provides that the CIT(A) shall pass an order in writing and shall set the points for determination, the decision thereon and the reasons for the decision. Keeping in mind the provision of sections 250 of the Act, it is incumbent upon the Ld. CIT(A) to pass a speaking order on the merits of the case by examining, verifying and analyzing the material on record.

6.2. Considering the above, ld. CIT(A) ought to have called for report from the ld. Assessing Officer since the entire observations and findings are based on the conclusions drawn for Assessment Year 2014-15. Ld. CIT(A) ought to have looked at the status of assessment order for Assessment Year 2014-15 to deal with the present case,

since according to the ld. Assessing Officer, the disallowance made towards interest in respect of loan advanced to M/s. Krypton Investments Consultancy Pvt. Ltd. continued in the year under consideration before us. No effort has been made by the ld. CIT(A) in this regard and has simply resorted to dismissing the appeal *ex parte* by referring to non-compliance made by the assessee.

7. In the given set of facts, in the interest of justice and fair play, we find it appropriate to remit the matter back to the file of ld. CIT(A) for *denovo* meritorious adjudication on the grounds of the appeal taken at the first appellate stage. We also direct the assessee to be diligent and cooperative in attending the hearings and make his submissions for expeditious and effective disposal of the appeal. He should not seek adjournments unless warranted by compelling reasons.

8. In the result, appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 24 September, 2024

Sd/-
(Narender Kumar Choudhry)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 24 September, 2024

MP, Sr.P.S.

Copy to :

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

BY ORDER,