

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

**SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 1726/MUM/2024
(Assessment Year: 2012-13)**

Nandkumar Yadavrao Tasgaonkar ,
101, Sumati Krishna Niwas, Shivsena
Bhavan Path, Near Hotel Ameya,
Dadar, (West), Mumbai – 400028.
[PAN: AACPT5886F]

..... **Appellant**

Vs

**Joint Commissioner of Income Tax,
Circle -16(3),**
Room No. 446, Ayakar Bhavan,
M.K.Road, Mumbai- 400020.

..... **Respondent**

Appearance

For the Appellant/Assessee : None
For the Respondent/Department : Shri Ashok Kumar Ambastha

Date

Conclusion of hearing : 09.09.2024
Pronouncement of order : 24.09.2024

ORDER

Per Rahul Chaudhary, Judicial Member:

1. By way of the present appeal the Assessee has challenged the order dated 07/02/2024, passed by the National Faceless Appeal Centre (NFAC), Delhi, [hereinafter referred to as the '**CIT(A)**'] whereby the Ld. CIT(A) had dismissed the appeal of the Assessee against the Assessment Order, dated 30/03/2015, passed under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the **Act**') for the Assessment Year 2012-13.
2. The appellant has raised following grounds of appeal :

"1. *The Hon. CIT(A) ought to have appreciated the fact that the appellant could not represent his case and submit the required details due to circumstances beyond his control.*

2. *The Hon. CIT(A) failed to consider the submission filed by the Appellant on 02-07-2017 and 20-06-2023.*
 3. *The Hon. CIT(A) erred in confirming the addition of agricultural income of Rs.6.35,27,350/-, made by the Ld. A.O. as unexplained income.*
 4. *The Hon. CIT(A) erred in confirming the addition of Deemed Dividend of Rs.2,54,015/-, made by the l.d. A.O.”*
3. When the Appeal was taken up for hearing, none was present on behalf of the Appellant. On perusal of grounds raised in the appeal we proceeded to adjudicate the appeal after hearing the Learned Departmental Representative.
4. In the grounds of appeal raised by the Appellant it has been, inter-alia, contended that the order has been passed by the CIT(A) without taking into consideration the submissions filed before the CIT(A). We note that the Appellant had filed appeal against the Assessment Order, dated 30/03/2015, passed under Section 143(3) of the Act before Commissioner of Income Tax (Appeals), Mumbai - 7. The Appellant has placed on record copy of submissions, dated 02/07/2017, filed before the Commissioner of Income Tax (Appeals), Mumbai - 7. We note that subsequently, the appeal was transferred to National Faceless Appeal Centre (NFAC)/CIT(A), and in response to notice, dated 8/12/2022, Appellant had filed Reply Letter, dated 20/06/2023, whereby the Appellant had also moved an application for admission of additional evidences under Rule 46A of the Income Tax Rules, 1962. It appears that since the time limit to comply with the notice, dated 08/12/2022, lapsed on 15/12/2022, submissions filed by the Appellant were not taken into consideration by the learned CIT(A) and Order, dated 07/02/2024, was passed dismissing the appeal on the ground of non-prosecution. It was also observed by the CIT(A) that in the absence of documentary evidence and explanation submitted by the Appellant, CIT(A) had no option but to uphold the findings returned by the Assessing

Officer. On perusal of the impugned order passed by the CIT(A), we note that after reproducing the assessment order, the CIT(A) has returned findings without taking into consideration the submissions, dated 02/07/2017, filed in the physical form before the Commissioner of Income Tax (Appeals), Mumbai - 7. As noted hereinabove, the Application for additional evidence was also not considered by the CIT(A). Therefore, keeping In view the facts and circumstances of the present case, we deemed it appropriate to set aside the Order, dated 07/02/2024, passed by CIT(A) with directions to the Learned CIT(A) to decide the appeal afresh after deciding the application for admission of additional evidence filed by the Appellant and taking into consideration the submission on the Appellant including those filed before the Commissioner of Income Tax (Appeals), Mumbai - 7. The Appellant is directed to file a copy of all submissions filed before the first appellate authority before the learned CIT(A), on receipt of notice of hearing. In terms of the aforesaid, Ground Number 2 raised by the Appellant is allowed while Ground No. 1, 3 and 4 are dismissed as being infructuous.

5. In result, the present Appeal is treated as allowed for statistical purpose.

Order pronounced on 24.09.2024

Sd/-
(Narnedra Kumar Billaiya)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 24.09.2024
Y.S.Patil, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai