

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

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

I.T.A No.3725/Mum/2024

(Assessment Year : 2012-13)

Shri Devisingh Narayansingh Chundavad, B-102, Meenakshi Apartment, Orlem Marve Road, Malad West, Mumbai-400 064 ACAPC8670J	vs	Income Tax Officer-30(1)(2) Kautilya Bhavan, BKC, Bandra Kurla Complex, Bandra, Mumbai-400 051
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Assessee Represented by	Shri Abhay Singh, CA
Department represented by	Smt. Snyogita Nagpal (CIT DR)

Date of hearing	17/09/2024
Date of Pronouncement	19/09/2024

ORDER

PER O.P. KANT (AM):

This appeal has been preferred by the assessee against the order dated 30/05/2024 passed by the Learned Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre,(NFAC), Delhi [in short, ‘the Ld.CIT(A)] for Assessment Year 2012-13, raising following grounds:-

“1. In the facts and circumstances of case and in law, the Ld AD erred in adding and Ld Appeal Unit erred in upholding the addition of total receipts in bank accounts of the appellant of H D ENTERPRISES (Account Number: 02620101712) and OM ENTERPRISES (Account Number: 02620101729), wherein fact the appellant done commission agency business from the said account including one more account being HM ENTERPRISES

(Account Number: 02620101714) in AY 2012-13 earning commission income in range of 0.01% to 0.1%, which was offered in return filed for AY 2012-13.

2. In the facts and circumstances of case and in law, the Ld AD erred in adding and the Ld Appeal Unit erred in upholding the addition of total receipts in bank accounts of the appellant in AY 2012-13 wherein fact, the receipts were not retained by appellant in the bank accounts and clearly the transaction pattern revealed business/income earning activities being carried out by appellant in AY 2012-13

3. In the facts and circumstances of case and in law, the Ld Appeal Unit erred in dismissing the appeal of appellant and upholding the addition of total receipts in bank accounts, wherein fact the appellant during the appellate proceeding stated about the nature of business activities being carried out by him from which commission income earned and also requested the Ld Appeal Unit to remand the case to id AD for proper understanding of case, which was not done

4. In the facts and circumstances of case and in law, the Ld Appeal Unit erred in dismissing the appeal of appellant and upholding the addition of total receipts in bank accounts, without even remanding the case to Ld AD for proper understanding of facts wherein fact appellant requested for remand.

5. In the facts and circumstances of case and in law, the Ld Appeal Unit erred in dismissing the appeal of appellant and upholding the addition of total receipts in bank accounts, on the ground that appellant is not interested in pursuing the case wherein fact appellant is a brain haemorrhage patient and also fixed by his spouse and, in laws in false Domestic Violence cases, Dowry harassment cases and Maintenance cases in other state due to which he was not able to cope with pressure, the appellant duly informed the Ld Appeal Unit about the same and requested for remand, which was not done. The Appellant has no malafide notice.

6. The Appellant craves to admit before Your Honour any additional Ground at the time of detailed hearing”

2. At the outset, before us the Learned Counsel for the assessee submitted that this appeal has been decided *ex-parte* qua the assessee. However, the Ld.CIT(A) has not decided the issue in dispute on merit and, therefore, the order of the Ld.CIT(A) may be set aside and restored to the file of the Ld.CIT(A). The Ld. Counsel submitted that during the appellate proceedings, the assessee was suffering from brain hemorrhage and various dowry harassment cases were filed against him and, therefore, he could not attend the hearing. The Ld. DR on the

other hand, opposed the request of the assessee to restore the matter back to the Ld.CIT(A).

3. We have heard the rival submissions of the parties and perused the relevant material on record. We find that the assessee was prevented from sufficient cause in not responding to the notices issued by the Ld.CIT(A). Further, the Ld.CIT(A) in terms of section 250 of the Act , was required to pass order on merit of the issues raised in the grounds, even in absence or non compliance on the part of the assessee. Since the Ld.CIT(A) has not decided the issue in dispute on merit, therefore, we feel it appropriate to set aside the order of the Ld.CIT(A) on the issue in dispute and restore the matter back to him for deciding afresh after considering the submission of the assessee. It is needless to mention that adequate opportunity of being heard shall be provided to both the activities, i.e. the assessee and the Assessing Officer. The grounds of appeal of the assessee are allowed for statistical purpose.

4. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 19th of September, 2024.

Sd/-

(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Mumbai,दिनांक / Dated: 19/09/2024
Pavanan

Sd/-

(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar), ITAT, Mumbai