

आयकर अपीलिय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "SMC", HYDERABAD**

BEFORE

SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / **ITA No.700/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2014-15)

Vishal Mital
Hyderabad
[PAN :ACQPM1388R]

Income Tax Officer
Vs. Ward-6(1)
Hyderabad

अपीलार्थी / Appellant
प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by : Shri Sashank Dundu, AR
राजस्व द्वारा/Revenue by : Shri Suresh A, DR

सुनवाई की तारीख/Date of hearing: 12/08/2024
घोषणा की तारीख/Pronouncement on: 30/09/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 24/05/2024 passed by the learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ("learned CIT(A)"), in the case of Vishal Mittal ("the assessee") for the assessment year 2014-15, assessee preferred this appeal.

2. At the outset, learned AR submitted that the first two notices that is notice under section 148 of the Income tax Act, 1961 ("the Act") dated 30.03.2021 and notice dated 12.11.2021 were not addressed to any specific recipient by mentioning the specific e-mail id therein and thus such notices cannot be deemed to have been either issued or served upon the recipient/assessee. Notice dated 13.12.2021 was issued to the assessee for the first time by mentioning the e-mail id, which further reinforces the fact

that the ITBA portal cannot be found fault with and there was no issuance/service of notice prior to 13.12.2021. Learned Ld.AR further submitted that the lease agreement and sales book are available with the department, wherein, the same were uploaded on the income-tax portal in submissions to the Grievance Cell on 24/03/2022 since the access to make submissions on the portal during the assessment proceedings were closed on 24/03/2022 even though the last date for submission was 24/03/2022, which was mentioned by the learned Assessing Officer in the assessment order, thereby depriving the assessee of an effective opportunity of submitting complete details and of being heard before the Assessing Officer as well as the learned CIT(A).

3. Learned AR further submitted that three effective notices were issued by the learned CIT(A) and in all such notices, no specific information was asked for. It simply mentioned that the assessee may file his written submissions, in response to which written submissions were filed. However, in the final order, several requirements were mentioned. Hence, no proper opportunity was provided to the assessee before the learned CIT(A). Further, issue with regard to issuance of notice under section 148 was not adjudicated. In fact, incorrect facts were mentioned with respect to filing of return in response to notice under section 148. Assessee never filed his return of income since the assessee never received the notice under section 148 of the Act. Learned AR, therefore prayed to take cognizance of grave irregularities in following the procedure of law by the department and provide an opportunity of being heard before the learned CIT(A) in the interest of justice.

4. Though the learned DR opposed the prayer made on behalf of the assessee, he could not contradict any of the specific facts pleaded by the assessee.

5. On a careful consideration of the matter, I am of the considered opinion that it is not proper to hold the assessee responsible for not furnishing any specific information necessary for adjudication of the matter, because the assessee was not put on notice of the need of any specific material. In view of the factual situation obtaining in this case, it would be in the interest of justice to provide an opportunity by allowing the assessee to produce the documents before the learned CIT(A). The highest that would happen by such course is that the assessee's case could be decided on merits. When the technicalities are pitted against the delivery of substantial justice, the former will give way to the latter. With this view of the matter, I allow the appeal and restore the issue to the file of the learned CIT(A) and the learned CIT(A) will consider the documents and take a view according to law.

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

Order pronounced in the open court on this the 30th September, 2024.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 30/09/2024
L.Rama, SPS

Copy forwarded to:

1. Shri Vishal Mital, 501, Saroja Apartment, Near Nature Cure Hospital, Ameerpet, Hyderabad
2. The Income Tax Officer, Ward-6(1), IT Tower, AC Guard, Masab Tank, Hyderabad
3. The Pr.CIT, Hyderabad
4. The DR, ITAT, Hyderabad
5. Guard File

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ASSISTANT REGISTRAR
ITAT, HYDERABAD