

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

**SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 4005/MUM/2024
(Assessment Year: 2013-14)**

Bindu Ketan Dhami,
2003, Bright City of Joy,
J.S.D. Road,
Mulund (West) – 400 080
Maharashtra.
[PAN: ADCPD8588R]

..... **Appellant**

Vs

**Income Tax Officer,
Ward – 29(1)(2), Mumbai**
Bandra Kurla Complex,
Mumbai, Maharashtra.

..... **Respondent**

Appearance

For the Appellant/Assessee : None
For the Respondent/Department : Shri Ajay Singh

Date

Conclusion of hearing : 30.09.2024
Pronouncement of order : 08.10.2024

ORDER

Per Rahul Chaudhary, Judicial Member:

1. The present appeal has been preferred by the Assessee against the order, dated 11/06/2024, passed by the National Faceless Appeal Centre (NFAC), Delhi, [hereinafter referred to as the '**CIT(A)**'] passed under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as '**the Act**'] whereby the CIT(A) had dismissed the Appeal preferred by the Assessee against the penalty order, dated 26/08/2016, passed under Section 271(1)(c) of the Act levying penalty of INR 3,66,225/- for the Assessment Year 2013-14.

2. The Appellant has raised following grounds of appeal :

1. *Under the facts and in law, the learned Commission of Income Tax (Appeal), National Faceless Appeal Centre (NFAC) (hereinafter referred to as "CIT(A)") erred in dismissing the appeal filed by the appellant and declining to condone the delay in filing the appeal.*
2. *Under the facts and in circumstances, the learned CIT(A) ought to have passed the order on merit of the case.*
2. *Under the facts and in law, the learned CIT(A) erred in confirming the penalty levied under section 271(1)(c) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") of Rs 3,66,225/-*
3. *Under the facts and in law, the learned CIT(A) erred in appreciating the fact that the alleged addition made by the Assessing officer (herein after referred to as "learned A.O.") of Rs.12,00,000/-, being the unsecured loan taken from Vijay Mercantile Private Limited as income from undisclosed source was merely on the basis of presumption, surmises and conjecture*
 - 3.1. *Under the facts and in circumstances, the addition made is not in accordance with the law as the same has been made on the basis of evidences collected behind the back of the assessee.*
4. *Under the facts and in law, the learned CIT(A) is erred in passing the order without giving reasonable opportunity of hearing and making submission.*
5. *Under the facts and in law, the order passed by learned CIT(A) is in violation of the principle of natural justice and equity."*

3. When the Appeal was taken up for hearing none was present on behalf of the Assessee. However, on perusal of letter, dated 29/09/2024, filed by the Assessee we find that the appeal preferred by the Assessee challenging the quantum additions made for the Assessment Year 2013-14 has been restored to the file of the CIT(A), vide order dated 30/07/2024 passed by the Mumbai Bench of the Tribunal in ITA No. 2642/Mum/2024. Therefore, keeping in view the substantial interest of justice, we set aside the order, dated 11/06/2024, passed by the CIT(A) dismissing the Appeal against levy of penalty under Section

271(1)(c) of the Act with the directions to the CIT(A) to decide the appeal afresh after taking into consideration the order passed by the CIT(A) pursuant to the above decision of the Tribunal in the quantum appeal. It is clarified that the CIT(A) shall be at the liberty to decide the issue of limitation as per law keeping in view the judgment of Hon'ble Supreme Court in the case of Collector of Land Acquisition Vs. Mst. Katiji & others AIR 1987 1353 (SC). Needless to say that the Assessee should be granted reasonable opportunity of heard.

4. In result, the present appeal preferred by the Assessee is allowed for statistical purpose.

Order pronounced on 08.10.2024.

Sd/-
(Prashant Maharishi)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 08.10.2024

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