

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH
MUMBAI**

**BEFORE: SHRI BR BASKARAN, ACCOUNTANT MEMBER
&
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

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

Cher Medical Technology, C-23, Indrasukh CHSL, Near ST. Louis School, Four Bungalows, Andheri West, Mumbai-400053.	Vs.	Assistant Commissioner of Income Tax 604, 6 th Floor, Piramal Chambers, Lalbaug, Parel, Mumbai-400012.
PAN/GIR No. AAJFC2202K		
(Appellant)	..	(Respondent)

Assessee by	Mr. Vishwas Mehendale (Virtually)
Revenue by	Shri. Krishna Kumar (SR.DR.)
Date of Hearing	08/10/2024
Date of Pronouncement	11/10/2024

आदेश / ORDER

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 04.11.2023 passed in Appeal no. CIT (A) 36, Mumbai/10359/2019-20 by the Ld. Commissioner of Income-tax(Appeals)/ National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-

tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment year [A.Y.] 2017-18, wherein learned CIT(A) has dismissed assessee's appeal ex-parte.

2. The brief facts under appeal state that the assessee e-filed its return of income for A.Y. 2017-18 on 07.11.2017, declaring total income of Rs. 22,62,840/-. The assessee is earning commission income on sale of medical equipments and is one of the selling agent of Karl Storz Endoscopy India Pvt. Ltd. The case was selected for limited scrutiny through CASS and notices u/s. 143(2) and 142(1) of the Act were issued and served upon the assessee. After taking electronically uploaded response of the assessee, learned assessing officer assessed the total income of the assessee at Rs. 1,46,77,974/- by making various disallowances. Penalty proceedings were separately initiated for misreporting the income.
3. Aggrieved by the assessment order, assessee preferred an appeal before learned CIT(A), who dismissed assessee's first appeal ex-parte.
4. Assessee has filed this second appeal on the ground that learned CIT(A) has erred in confirming the aforesaid addition.
5. In response to the notice issued by the tribunal, learned DR appeared and participated in the hearing.
6. We have perused the records and heard learned representatives for both the parties.
7. Learned representative for the assessee has, at the very outset informed that impugned order has been passed by learned

CIT(A) as ex-parte in violation of the principles of natural justice. Prayed to set aside the impugned order.

8. Learned DR has submitted that the assessee was afforded sufficient opportunity of hearing by learned CIT(A) but for no avail. Learned DR has supported impugned order.
9. It is worth mentioning that this matter was earlier heard at length on merit and was reserved for passing order. However, while dictating the order, it was noticed that the assessee did not turn up before the first appellate authority in compliance of notices issued for the hearing on 11.02.2021 and 20.10.2023. Learned CIT(A) has though, mentioned in order that the appeal is being decided on the basis of material on record on merit. However, we do not find any discussion in respect of the merits of the case, whereas learned CIT(A) was expected to state the points for determination, decision thereon and the reasons for the decision as provided u/s. 250(6) of the Act. In the circumstances and in the interest of justice and fair play, we deem it just and appropriate to afford last opportunity to the assessee and remit the matter back to the file of learned CIT(A) for adjudication on merits. We further direct the assessee to be diligent and cooperative in attending the hearings and making submissions before the learned CIT(A) for the expeditious and effective disposal. Assessee should refrain from seeking any adjournment but for compelling and unavoidable circumstances. Needless to say that learned CIT(A) shall ensure the observance of the principles of natural justice. It is made clear that we have not

made any observation in respect of the merits of the case. The appeal is liable to be allowed in above terms.

10. In the result, the appeal is allowed as stated hereinabove. Impugned order dated 04.11.2023 is set aside. The case is restored back to the file of the learned CIT(A) for statistical purposes.

Order pronounced on 11.10.2024.

Sd/-
(BR BASKARAN)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Mumbai; Dated 11/10/2024
Anandi Nambi, *Steno*

Copy of the Order forwarded to:

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

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai