

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “B”, MUMBAI
BEFORE SHRI. BR BASKARAN, ACCOUNTANT MEMBER
AND
SHRI. RAJ KUMAR CHAUHAN, JUDICIAL MEMBER
ITA NO. 2408/MUM/2024 (A.Y: 2015-16)**

Narayansingh J. Deora
5C, Bombay Market, Station Road,
Mumbai – 401101.
PAN: AEFPD1596M

Vs. ITO Ward 2(5), Thane
Room No. 16, B Wing, 6th
Floor, Ashar IT Park Road No.
16Z, MIDC, Thane – 400604.

(Appellant)

(Respondent)

Assessee Represented by : None
**Department Represented by : Shri. Hemant Kumar C.
Leuva CIT DR.**
Date of conclusion of Hearing : 08.07.2024
Date of Pronouncement : 08.10.2024

ORDER

PER RAJ KUMAR CHAUHAN (J.M.):

1. This appeal is filed by the appellant/assessee against the order dated 21.03.2024 of Learned Commissioner of Income Tax (Appeals), 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*”] for the A.Y. 2015-16, wherein the appeal has been dismissed by passing an ex-parte order.

2. The assessee e-filed its return of income on 25.09.2015 declaring total income of Rs. 42,31,270/- and the same processed u/s. 143(1) of the Act. The assessee is a proprietor of M/s. Ashapura Construction Co. and engaged in the business of civil contractors. The case was selected for scrutiny for examination of payment to related persons and unsecured loans under CASS and accordingly statutory notice under section 143(2) of the Act, dated 01.08.2016, was issued and duly served upon the assessee. Subsequently, the statutory notices u/s. 142(1) of the Act was issued and served. The assessee neither attended the assessment proceedings nor furnished any details. The show cause letter dated 09.10.2017 was also sent to the assessee asking him to explain the facts and made submissions on or before 13.10.2017, but no response came forward from the assessee. Hence, the best judgment assessment order u/s. 144 of the Act was passed. The said order was challenged before the Ld. CIT(A) who dismissed the appeal ex-parte and confirmed the addition of Rs. 6,55,447/-.



3. None appeared on behalf of the assessee. We have heard the Ld. DR on behalf of the revenue and perused the material on record and the impugned order. The only question at this stage before us is whether the Ld. CIT(A) has followed the principal of natural justice and has given effective hearing to the assessee/appellant before dismissing the appeal?
4. Section 250 sub section 2(a) of "the Act" provides as under:

“Section 250 (2) The following shall have the right to be heard at the hearing of the appeal: -

a. The appellant, either in person or by an authorised representative;”
5. On perusal of the order of the Ld. CIT(A), it is noticed that only hearing notice was sent on 31.01.2020 and there is nothing that the said notice was ever served upon the assessee or not?
6. It is settled law that no one should be condemned unheard. Since the assessment order was also passed ex-parte, therefore, we deemed it expedient that the Ld. AO need to pass afresh order after giving effective hearing to the assessee/appellant. The assessee/appellant shall submit his case before the Ld. AO as and when required/directed to do so by the Ld. AO.



7. The case is accordingly restored to the file of the Ld. AO with the direction to decide it afresh as per above observations.

8. In the result, appeal filed by the assessee is allowed for statistical purpose in the above terms.

Order pronounced in the open court on 08.10.2024

Sd/-
(BR BASKARAN)
(ACCOUNTANT MEMBER)

Sd/-
(RAJ KUMAR CHAUHAN)
(JUDICIAL MEMBER)

Mumbai / Dated 08.10.2024
Karishma J. Pawar, (Stenographer)

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