

**IN THE INCOME TAX APPELLATE TRIBUNAL
"J-SMC" BENCH MUMBAI**

**BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

**ITA No.4392/Mum/2024
(Assessment Year: 2012-13)**

Netra Subhash Korgaonkar, 27/A/14 Shyam Kutir Housing Society, Vrindavan Society, Thane (W)-400601. Maharashtra.	बनाम/ Vs.	ITO-Ward 1(5), Ashar IT Park, Wagle Industrial Estate, Thane (W)-400604, Maharashtra.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : BVKPK0520K		
(अपीलार्थी /Appellant)		(प्रत्यर्थी / Respondent)

Assessee by :	Shri Rajesh Athavale.AR
Revenue by :	Shri.Asif Karmali. Sr. DR

सुनवाई की तारीख / Date of Hearing	17/10/2024
घोषणा की तारीख /Date of Pronouncement	17/10/2024

आदेश / ORDER

PER PAVAN KUMAR GADALE - JM:

The assessee has filed the appeal against the order of the National Faceless Appeal Centre (NFAC), Delhi / CIT(A), passed u/sec 144 r.w.s 147 and u/sec 250 of the Act.

2. At the time of hearing, the Ld.AR submitted that there is a delay in filing the appeal before the Hon'ble Tribunal and the assessee has filed an affidavit for condonation of delay. Whereas, the facts mentioned in the affidavit are reasonable

and the Ld.DR has no specific objections. Accordingly, we condone the delay and admit the appeal. The assessee has raised the following grounds of appeal:

- 1. The learned CIT(A) erred in passing the ex-parte order.*
- 2. The learned CIT(A) erred in confirming the addition of INR 6,75,000 as explained income. The learned CIT(A) erred in not appreciating that the appellant made donation to Ramrao Adik Education Society for securing an admission for her son and she had the details of source of such donation.*
- 3. The learned CIT(A) erred in not directing the AO to delete the interest charged under Sections 234A, 234B and 234C of the Income tax Act.*
- 4. The learned CIT(A) erred in not directing the AO to drop the penalty proceedings initiated under Sections 271F, 271(1)(b) and 271(1)(c) of the Income tax Act.*
- 5. Each one of the above grounds of appeal is without prejudice to the above.*
- 6. The appellant reserves the right to add, alter or amend to the above grounds of appeal.*

3. The brief facts of the case are that, the Assessing Officer(AO) has received the information that the assessee has not filed return of income for the A.Y 2012-13 and the assessee has made donation of Rs. 6,75,000/- to M/s.

Ramrao Adik Education Society to secure admission of her son in the F.Y.2011-12 and the assessee was called to explain the sources and also notice u/sec 148 and u/sec142(1) of the Act are issued, since there was no compliance by the assessee, the AO considering the information on record has invoked the provisions u/sec 144 of the Act and made addition of Rs. 6,75,000/- as unexplained income and assessed the total income of Rs. 6,75,000/- and passed the order u/s 144 r.w.s147 of the Act dated 03.12.3019.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and has issued notices of hearing and since there was no compliance by the assessee to notices.. Therefore the CIT(A) considering the information on record has confirmed the action of the A.O and dismissed the appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in confirming the action of the Assessing officer overlooking the information of the assessment proceedings. Further the assessee has a good case on merits and shall substantiate with the material evidences and prayed for an opportunity to explain before the lower

authorities. Per Contra, the Ld. DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no compliance nor appearance in spite of providing adequate opportunity of hearing and the notices were issued. Therefore, the CIT(A) was of the opinion that the assessee is not interested in prosecuting the appeal and dismissed the appeal ex-parte confirming the action of the assessing officer. The CIT(A) has issued the notices of hearing on 07.01.2021, 03.02.2023 and 21.02.2023 referred at Page 6 Para 5 of the order but there was no proper response and thus the Ld.CIT(A) came to a conclusion that the assessee is not interested and decided the appeal based on the information available on record. Whereas the assessee has raised grounds of appeal challenging the additions made by the A.O and there could be various reasons for non appearance which cannot be overruled. Therefore, considering the facts and principles of natural justice, we shall provide with one more opportunity of hearing to the assessee to substantiate the case with evidences and information. Accordingly, we set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to adjudicate afresh and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of

the appeal. And we allow the grounds of appeal of the assessee for statistical purposes.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 17.10.2024.

Sd/-

(GAGAN GOYAL)
ACCOUNTANT MEMBER

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 17/10/2024

KRK, PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

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आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai