

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

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

**ITA No. 4385/MUM/2024
(Assessment Year : 2017-18)**

Rajendra Rajan 104, Heritage Apartment, Near V.V.F Ltd, Behind Nirmal Industries Estate, Sion (East) 400022.	Vs.	Assistant Commissioner of Income Tax – Circle 33(1), Room No. 949, 9 th Floor, Kautilya Bhavan, C-41 to C-43, G Block, Bandra Kurla Complex, Bandra (East), Mumbai- 400051.
PAN/GIR No. AATPN8383N		
(Appellant)	..	(Respondent)

Assessee by	Mr. Shashank Mehta
Revenue by	Shri. R. R. Makwana, Sr. DR
Date of Hearing	24/10/2024
Date of Pronouncement	29/10/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 27.06.2024 passed in Appeal no. CIT(A) 45, Mumbai/10236/2019-20 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 filed his original return of income for A.Y. 2017-18 on 29.03.2018, declaring total income at Rs. 36,57,570/-. The return was processed u/s. 143(1) of the Act. subsequently, case was selected for limited scrutiny under CASS. Statutory notices u/s. 143(2) and 142(1) of the Act were issued and served upon the assessee. Assessee submitted the requisition details before learned assessing officer. After considering assessee's submissions, learned assessing officer added Rs. 33,90,000/- as unaccounted cash u/s. 69A of the Act in the total income of the assessee.
3. Aggrieved, 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 addition of Rs. 33,90,000/- u/s. 69A of the Act by passing ex-parte impugned order in violation of the principles of natural justice.
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) ex-parte in violation of the principles of natural justice. Prayed to set aside the impugned order.

8. Learned DR has submitted that assessee was provided sufficient opportunity of hearing by learned CIT(A) but for no avail. Learned DR has supported impugned order.
9. We notice that the assessee did not respond to the various notices issued by the first appellate authority on seven occasions. However, it is further noticed that learned CIT(A) passed ex-parte impugned order without any substantial discussion on 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.
10. In the result, the appeal is allowed in above terms. Impugned order dated 27.06.2024 is set aside. The case is restored back to the file of the learned CIT(A) for statistical purposes.
- Order pronounced on 29.10.2024.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Mumbai; Dated 29/10/2024
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