

**IN THE INCOME TAX APPELLATE TRIBUNAL “J(SMC)” BENCH, MUMBAI**

**BEFORE MS. KAVITHA RAJAGOPAL, JM AND  
SHRI GIRISH AGRAWAL, AM**

ITA No.4417/Mum/2024  
(Assessment Year: 2013-14)

Sanjay Subhash Yerunkar C/o. CA Himanshu Gandhi Chartered Accountants, 16 <sup>th</sup> Floor, D Wing, Trade World Tower, Kamala Mills Compound, Lower Parel, Mumbai-400 013	Vs.	ITO-27(3)(1) Room No. 422, 4 <sup>th</sup> Floor, Tower No. 6, Vashi Railway Station, Commercial Complex, Vashi, Navi Mumbai-400 703
PAN/GIR No. ADIPY 5466 F		
(Assessee)	:	(Respondent)
Assessee by	:	Shri Himanshu Gandhi
Respondent by	:	Shri Asif Karmali
Date of Hearing	:	21.10.2024
Date of Pronouncement	:	30.10.2024

**ORDER**

**Per Kavitha Rajagopal, J M:**

This appeal has been filed by the assessee, challenging the *ex parte* order of the learned Commissioner of Income Tax (Appeals) (‘ld.CIT(A) for short), National Faceless Appeal Centre (‘NFAC’ for short) passed u/s.250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Year (‘A.Y.’ for short) 2013-14.

2. During the appellate proceedings, it was observed that the appeal has been filed by the assessee with a delay of 44 days for which the assessee has filed an Affidavit briefing the reason for the said delay. Upon perusal of the same, we deem it fit to condone the said delay. Delay condoned.

3. The assessee has raised the following grounds of appeal:

1. *On the facts and circumstances of the case and law, the Ld. CIT(A) erred in confirming addition of Rs.1751370 as Rent Income from Immovable property after allowing the 30% standard deduction on gross receipt of Rs.2501960, without considering the fact the receipt is on account of running buses on hire and in that business profit is not more than 10% of gross receipt*
2. *On the facts and circumstances of the case and law, the Ld. CIT(A) failed to give direction to Ld.AO for allowing the credit of TDS of Rs.50039 deducted on Bus Running on hire*
3. *On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming charging of Interest under section 234A, 234B of Income Tax Act, 1961*
4. *On the facts and circumstances of the case and law, the Ld. CIT(A) erred in confirming initiation of penalty proceedings u/s 271(1)(c) of the Income Tax Act, 1961*

4. The brief facts are that the assessee is an individual and had not filed his return of income for the year under consideration. The Id. Assessing Officer ('A.O.' for short) reopened the assessee's case vide notice u/s. 148 of the Act dated 27.03.2021 for the reason that information was received that the assessee has received rental income amounting to Rs.25,01,960/- but had not filed his return of income, thereby on the belief that income has escaped assessment. The assessee has been non-compliant throughout the assessment proceeding and the Id. A.O. then passed the assessment order u/s. 147 r.w.s 144 r.w.s. 144B of the Act dated 07.03.2022, being the best judgment assessment, determining the total income at Rs.17,51,370/-, making an addition on the impugned amount after allowing deduction of Rs.7,50,588/- @ 30% of the annual value on the alleged total rent received by the assessee during the year under consideration.

5. Aggrieved the assessee was in appeal before the first appellate authority, challenging the assessment order.

6. The Id. CIT(A) vide order dated 17.05.2024, upheld the order of the Id.A.O. for the reason that inspite of several opportunity the assessee has failed to substantiate his claim and has been non compliant throughout the appellate proceedings.

7. The assessee is in appeal before us, challenging the impugned order of the Id. CIT(A).

8. We have heard the rival submissions and perused the materials available on record. The Id. A.O. observed that the assessee has received rental income amounting to Rs.25,01,960/- for which TDS has been deducted by M/s. Hindustan Construction Co. Ltd. as reflected in Form 26AS of the assessee for the year under consideration. The Id. A.O. made an addition on the said amount after deducting 30% of the annual value which aggregates to Rs.7,50,588/- and the assessee has challenged the additions made by the Id. A.O. before the first appellate authority but has been non-compliant before the lower authorities.

9. The learned Authorised Representative ('Id. AR' for short) for the assessee contended that the assessee has got a good case on the merits and prayed that the assessee may be given one more opportunity to present his case before the Id. CIT(A).

10. The learned Departmental Representative ('Id.DR' for short) vehemently opposed to setting aside the issue to the file of the lower authorities for the reason that the assessee was given several opportunity by the Id.A.O. and the Id. CIT(A) which was not availed by the assessee.

11. On the above factual matrix of the case, we are of the considered view that the assessee may be given one more opportunity to present his case before the Id. A.O. by adhering to the principles of natural justice. We, therefore, remand all these issues back to the file of the Id. A.O. for *de novo* assessment. The assessee is directed to comply with

the proceedings without any undue delay on his side and needless it is to say that sufficient opportunity of hearing is to be given to the assessee.

12. In the result, the appeal filed by the assessee is allowed for statistical purpose.  
*Order pronounced in the open court on 30.10.2024.*

Sd/-  
(Girish Agrawal)  
Accountant Member

Sd/-  
(Kavitha Rajagopal)  
Judicial Member

Mumbai; Dated : 30.10.2024

Roshani, Sr. PS

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai