

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

**ITA No.3948/M/2024
Assessment Year: 2012-13**

Shri Rajendra Singh Richpal Singh Rathore, Banglow No.H-1, Rajeshree House, Ostwal Empire, Saravali, Palghar, Boisar-401501 PAN: AHDPR0416K	Vs.	ACIT, Income Tax Department, Bidco Road, Palghar, Room No.101, Maharashtra-401404
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Vipul Jain, A.R.
Revenue by : Shri R.R. Makwana, Sr. D.R.

Date of Hearing : 26 . 09 .2024
Date of Pronouncement : 15 . 10 .2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 06.06.2024, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2012-13.

2. In the instant case vide assessment order dated 26.12.2018 u/s 143(3) r.w.s 147 of the Act, the additions of Rs.79,86,308/- & Rs.11,50,000/- have been made on account of cash deposits as unexplained money as per the provisions of section 69A of the Act. The Assessee, being aggrieved, though challenged the said additions before the Ld. Commissioner however in spite of granting multiple opportunities as observed by the Ld. Commissioner in para-no.4 of the impugned order, the Assessee did not respond to the same and therefore considering the non-compliant conduct of the Assessee, the Ld. Commissioner decided the appeal of the Assessee as ex-parte and ultimately dismissed the same for non-prosecution but not on merits of the case.

3. We have given thoughtful considerations to the peculiar facts and circumstances of the case. From the impugned order, it appears that the Ld. Commissioner dismissed the appeal in limine but not decided the appeal on the merits and therefore for the just decision of the case and for substantial justice, we are inclined to set aside the impugned order and consequently remanding the case of the file of the Ld. Commissioner for decision on merits, suffice to say by affording reasonable opportunity to the Assessee to substantiate his claim. We clarify that in case of subsequent default, the Assessee shall not be entitled for any leniency.

4. In the result, the appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced in the open court on 15.10.2024.

**Sd/-
(GAGAN GOYAL)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.