

IN THE INCOME TAX APPELLATE TRIBUNAL "F" BENCH, MUMBAI

**BEFORE SHRI OM PRAKASH KANT, AM AND
SHRI SANDEEP SINGH KARHAIL, JM**

ITA No. 4090/Mum/2024
(Assessment Year: 2016-17)

Vijay Pravinchandra Thakkar 1204-05, Kalindi, Neelkanth Valley, Ghatkopar E, Rajawadi, Mumbai-400 077	Vs.	ACIT Circle 14(2)(2) Aaykar Bhavan, M. K. Road, Mumbai-400 020
PAN/GIR No. AAAPT 6227 G		
(Assessee)	:	(Respondent)
Assessee by	:	Shri Manoj Gupta
Respondent by	:	Shri Sunil A. Umap
Date of Hearing	:	06.11.2024
Date of Pronouncement	:	08.11.2024

ORDER

Per Om Prakash Kant, A M:

This appeal by the assessee is directed against the order dated 23.07.2024, passed by the learned Commissioner of Income Tax (Appeals) - National Faceless Appeal Centre (in short 'Id. CIT(A)') for the Assessment Year ('A.Y.' for short) 2016-17, raising the following grounds:

- 1) That impugned order passed does not stand scrutiny of law being passed by keeping aside the principles of natural justice in view of the fact that as per web portal of National Faceless Appeal Centre (in short "NFAC") communication window was enabled for Faceless appeal on 02/11/2022 and impugned order was passed on 23/07/2024, i.e., almost after 21 months without issue of any notice to Appellant.*
- 2) That in the facts and circumstances of the case and in law, Ld. CIT(A) erred in passing the impugned order sustaining addition u/s 68 of the Act perverse of records available with assessing officer so much so that impugned order was passed without summoning the assessment records.*
- 3) That in the facts and circumstances of the case and in law, Ld. CIT(A) of NFAC erred in dismissing the appeal of the appellant on the basis of notices issued by CIT(A)-22, Mumbai dated 13/02/2020 for which adjournment was sought and notice dated 27/02/2020 fixing the*

hearing on 17/03/2020 on which day no hearing could take place due to COVID pandemic and subsequently no notice was issued.

4) That impugned order is contrary to the spirit of order passed by Hon'ble Supreme Court in suo moto writ petition (c) No. 3 of 2020 dated 10/11/2022 granting exclusion of time from 15/03/2020 to 28/02/2022 for the purpose of limitation under all the provisions of law which mandate issue of fresh notice after 28/02/2022 before deciding the pending appeal.

5) That in the facts and circumstances of the case and in law, Ld. CIT(A) erred in dismissing the appeal of appellant without giving any reasons by just simply relying upon the assessment order passed so much so facts and grounds narrated in the facts and grounds of appeal have neither been considered nor adjudicated.

PRAYER:

That in the facts and circumstances of the case and in law the appellant most humbly prays that this Hon'ble Tribunal may please to: -

(a) Pass an order setting aside the impugned order passed by National Faceless Appeal Centre, Delhi / Commissioner of Income Tax (Appeals) and accepting the returned income.

(b) Pass such other or further orders, as this Hon'ble Tribunal may deem fit and appropriate in the facts and circumstances of the case in favour of appellant.

2. We have heard the rival submissions of the parties on the ground no. 1 of the appeal of the assessee. The ld. Counsel for the assessee submitted that the notice for hearing was issued by the ld. CIT(A) only on 13.02.2020 and 27.02.2020. In respect of the notice dated 13.02.2020, the assessee sought adjournment and, thereafter, another notice was issued by the ld CIT(A) , which was during the Covid period , therefore , could not be complied. Subsequently, the appeal was transferred to the National Faceless Centre, Delhi. Thereafter, no notice was issued to the assessee. The appeal has been disposed off on 23.07.2024 without taking into consideration any submission of the assessee.

3. On verification of the paper book of the assessee, containing pages 1 to 61, the averment of the ld. Counsel is found to be verified. Since under the provisions of the Act, the ld. CIT(A) is required to pass the order after providing opportunity of being heard to

the assessee, therefore, in view of the interest of natural justice, we feel it appropriate to set aside the order of the Id. CIT(A) on the issue in dispute and restore the matter back to him for deciding afresh after providing adequate opportunity of being heard to the assessee. The Ground no. 1 of the appeal of the assessee is accordingly allowed.

4. Since , we have already restored the appeal back to the Id CIT(A), the other grounds raised on the merits are not required to be adjudicated at this stage.

5. In the result, the appeal filed by the assessee is allowed for statistical purpose.
Order pronounced in the open court on 08.11.2024

Sd/-

Sd/-

(Sandeep Singh Karhail)
Accountant Member

(Om Prakash Kant)
Accountant Member

Mumbai; Dated : 08.11.2024

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