

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

S.M.C. MATTER

ITA no.145/Nag./2024
(Assessment Year : 2013-14)

Shampa Devprasad Sengupta
Plot no.203, Aradhna Apartment
Nari Ring Road, Opp. Power Grid
Uppalwadi, Nagpur 440 026
PAN – BHKPS6291R

..... Appellant

v/s

Income Tax Officer
Ward-2(2), Nagpur

..... Respondent

Assessee by : Shri Mukesh Agrawal
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 07/11/2024

Date of Order – 18/11/2024

ORDER

The assessee has filed this appeal challenging the impugned order dated 24/01/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2013-14.

2. The assessee has raised following grounds:-

"1. On the facts and circumstances of the case and in law, the learned CIT Appeals, NFAC, Delhi has grossly erred in dismissing appeal of the assessee by invoking provisions of section 249(4)(b) of the I.T Act, 1961 which is illegal, invalid and against the principles of natural justice.

2. On the facts and circumstances of the case and in law, the learned CIT Appeals, NFAC, Delhi has erred in holding that the appeal filed by the appellant is not maintainable. He ought to have seen that according to the appellant no tax is payable by him and that, therefore, no advance tax liability arises and in view of the same, the provisions contained in Sec. 249(4)(b) have no application.

3. The learned Commissioner of Income-Tax (Appeals) NFAC ought to have considered that the appellant has agitated all the additions made in the assessment order as such there is no admitted income hence provisions of section 249(4)(b) are not applicable.

4. The learned Commissioner of Income-Tax (Appeals) NFAC has passed the order without providing proper opportunity to the appellant.

5. The learned Commissioner of Income-Tax (Appeals) NFAC ought to have considered each of the grounds agitated before him and decided the appeal on merits.

6. The Appellant craves leave to add, amend, alter, vary and / or withdraw any or all the above grounds of appeal."

2. When this appeal is taken up for hearing, the learned A.R. appearing for the assessee submitted that the learned CIT(A) passed an ex-parte order and prayed that one opportunity may be granted by restoring the matter to the file of the learned CIT(A) to enable the assessee to substantiate its case before the learned CIT(A).

3. On the other hand, the learned D.R. submitted that the learned CIT(A) has given sufficient opportunities inspite of that the assessee has not appeared before the learned CIT(A) and not filed relevant details. He strongly supported the orders passed by the learned CIT(A).

4. I have heard both the parties, perused the materials available on record and gone through orders of the authorities below. I find that though the learned CIT(A) gave opportunities to the assessee, ultimately, the order passed by him is an ex-parte order. Therefore, I am of the opinion that by following the principles of natural justice, one more opportunity should be

given to the assessee to substantiate his case before the learned CIT(A). In view of the above, the order passed by the learned CIT(A) is set aside and remit the matter to the file of the learned CIT(A) and direct him to adjudicate the matter afresh after providing reasonable opportunity of being heard to the assessee. It is also directed that the assessee should not seek adjournment without there being a justified reason. Accordingly, all the grounds raised by the assessee in this appeal are allowed for statistical purposes.

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

Order pronounced in the open Court on 18/11/2024

NAGPUR, DATED: 18/11/2024

**Sd/-
V. DURGA RAO
JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

*Pradeep J. Chowdhury
Sr. Private Secretary*

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur