

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE "B" BENCH : PUNE
BEFORE SHRI RAMA KANTA PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

I.T.A.No.1402/PUN./2024
Assessment Year 2021-2022

M/s. Sagar Developers, S.No.27/22, Puneet Yash Arcade, Dhanukar Colony, Kothrud, Pune City, Maharashtra. PIN – 411038 PAN AASFS3658Q	vs.	The ACIT, Circle-2, Income Tax Office, PMT Bldg., Shankar Sheth Road, Pune – 411 037. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri H.G. Sharma
For Revenue :	Shri Arvind Desai, Addl. CIT-DR

Date of Hearing :	26.11.2024
Date of Pronouncement :	27.11.2024

ORDER

PER RAMA KANTA PANDA, V.P. :

This appeal filed by the assessee is directed against the order of the learned CIT(A)-NFAC, Delhi, dated 22.05.2024, relating to assessment year 2021-2022. Although a number of grounds have been raised by the assessee, however, these are all relate to order of the CIT(A) in confirming the various additions made by Assessing Officer in the order passed u/sec.143(3) r.w.s.144B of the I.T. Act, 1961 [in short "the Act"].

2. Facts of the case, in brief, are that the assessee is a partnership firm engaged in construction of housing project. It filed it's return of income on 26.02.2024 declaring total

income at Rs.NIL after claiming deduction u/sec.80IBA of the Act.

2.1. The case of the assessee was selected for scrutiny under CASS and accordingly statutory notices u/sec.143(2) and 142(1) were issued to the assessee; in response to which, the A.R. of the assessee filed various details from time to time. The Assessing Officer in the order passed u/sec.143(3) dated 23.12.2022, determined the total income of the assessee at Rs.82,26,786/- by making the following additions to the gross total income of Rs.38,54,918/- i.e., (a) commission expenses Rs.52,39,454/- (b) interest expenses Rs.25,76,300/-; (c) contractual expenses of Rs.5,81,603/- and thereafter by deducting Rs.40,25,486/- under Chapter-VIA of the Act.

2.2. Since the assessee did not appear before the CIT(A) despite number of opportunities granted, the learned CIT(A) in the ex-parte order passed by him upheld the various additions made by the Assessing Officer. Aggrieved with such order of the learned CIT(A), the assessee is in appeal before the Tribunal.

3. Learned counsel for the assessee submitted that due to non-receipt of notice by the assessee from the O/o. Ld. CIT(A), he could not participate in the appeal proceedings. It was submitted that the notices were sent to the old email-id which no longer in operation. He submitted that in the interest

of justice the assessee should be given an opportunity to represent his case before the CIT(A).

4. Learned DR on the other hand submitted that CIT(A) has given number of opportunities and the assessee neither sought any adjournment nor filed any written submissions and therefore, the order of the CIT(A) should be upheld and the grounds raised by the assessee be dismissed.

5. We have heard rival arguments made by both the parties and perused the material available on record. It is an admitted fact that the learned CIT(A) confirmed the various additions made by the Assessing Officer and dismissed the appeal of assessee on account of non-participation in the appellate proceedings by the assessee. It is the submission of the learned counsel that due to non-receipt of notice of hearing from the O/o.CIT(A), the assessee could not participate in the appellate proceedings. It is also his submission that given an opportunity, the assessee is in a position to substantiate his case by filing the requisite details before the CIT(A). Considering the totality of the facts and circumstances of the case and in the interest of justice, we deem it proper to restore the issues back to the file of learned CIT(A) with a direction to grant one last opportunity to the assessee to substantiate it's case by filing the requisite details and decide the case as per fact and law. The assessee is also

hereby directed not to seek any adjournment under any pretext, failing which, the learned CIT(A) is at liberty to pass appropriate order as per law. We hold and direct accordingly. Grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open Court on 27.11.2024.

Sd/-
[MS. ASTHA CHANDRA]
JUDICIAL MEMBER

Sd/-
[RAMA KANTA PANDA]
VICE PRESIDENT

Pune, Dated 27th November, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A), Pune-11, Pune.
4.	The Pr. CIT, Pune concerned
5.	D.R. ITAT, "B" Bench, Pune.
6.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,
Pune.