

| आयकरअपीलीयअधिकरणन्यायपीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"E" BENCH, MUMBAI

BEFORE SHRI SANDEEP GOSAIN, HON'BLE JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, HON'BLE ACCOUNTANT MEMBER

I.T.A. No.5299/Mum/2024
Assessment Year: 2017-18

Trishla Developers 1397, Gr. Floor Meru Shikhar Bldg Railway Station Road Kamatghar Bhiwandi - 421302 [PAN: AAFFT2773C]	Vs	Income Tax Officer, Ward-1(4), Kalyan
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Lavanya Rajpurohit, A/R
Revenue by :	Shri Raj Singh Meel, Sr. D/R

सुनवाईकीतारीख/**Date of Hearing** : 19/11/2024
घोषणाकीतारीख/**Date of Pronouncement** :19/11/2024
आदेश/ORDER

PER SANDEEP GOSAIN, JM:

The present appeal by the assessee is preferred against the order dated 20/02/2024, passed by the NFAC, Delhi, [hereinafter 'the Id. CIT(A)'] pertaining to AY 2017-18.

2. At the very outset, we notice on the perusal of case file that the Id. CIT(A) has passed an *ex-parte* order thereby confirming the additions made by the AO.

3. The Id. A/R appearing on behalf of the assessee submitted that no notice in the physical form was ever served upon the assessee during the course of proceedings pending before the Id. CIT(A). It was also submitted that the assessee could not know from the e-mail that the proceedings

before the Id. CIT(A) were pending and what was the fate of those hearings going on before the Id. CIT(A). Therefore, the Id. A/R submitted that since proper opportunity could not be granted to the assessee, therefore, the matter be restored back to the file of the Id. CIT(A) for deciding the issues raised by the assessee on merits.

3.1. On the contrary, the Id. D/R submitted that due notices were served upon the assessee but he has no objection in case the matter is restored back to the file of Id. CIT(A), subject to payment of cost.

4. We have heard the Id. Counsels of both the parties and have carefully perused the material placed on record as well as the orders passed by the revenue authorities.

5. In our view, the interests of justice would be met in case the *lis* between the parties is decided on merits after affording fair opportunity of being heard to the assessee. Therefore, considering the above factual and legal position, the Bench feels that ends of justice would be met only if the matter is restored back to the file of the Id. CIT(A) for deciding the matter afresh and in that eventuality, the rights of the revenue would not be prejudiced. Further in case proper and sufficient opportunity is not granted to the assessee, then in that eventuality, the rights of the assessee would be prejudiced. However, for the lethargic and negligent action on part of the assessee, a cost of Rs.2000/- is imposed and the same shall be deposited by the assessee in the Prime Minister Relief Fund and copy of the same shall be submitted to the Id. CIT(A) for proof and thus the appeal of the assessee is restored to the file of the Id. CIT(A) to decide it afresh by providing one more opportunity of hearing to the assessee.

5.1. At the same time, we make it clear that the assessee, shall not seek any adjournment on frivolous ground and remain cooperative during the course of proceedings. Thus, the appeal of the assessee is allowed for statistical purposes.

6. Before parting, we make it clear that our decision to restore the matter back to the file of the Id. CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by Id. CIT(A) independently in accordance with law.

7. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Court on 19th November, 2024 at Mumbai.

Sd/-
(PRABHASH SHANKAR)
ACCOUNTANTMEMBER

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 19/11/2024

SP SP

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. संबंधितआयकरआयुक्त/ Concerned Pr. CIT
4. आयकरआयुक्त (अपील) / The CIT(A)-
5. विभागीयप्रतिनिधि , आयकरअपीलीयअधिकरण, मुंबई/DR,ITAT, Mumbai,
6. गार्डफाई/Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकरअपीलीयअधिकरण
ITAT, Mumbai