

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'G' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

**ITA No.4876/Mum/2024
(Assessment Year :2013-14)**

Sushil Anant Chavan 1503, Tower 2 Auris Serenity Sundar Cross Lane Kanchpada Malad West Mumbai – 400 064	Vs.	Income Tax Officer- Ward 41(2)(4) Mumbai
PAN/GIR No.AAGPC4162M		
(Appellant)	..	(Respondent)

Assessee by	Shri Dharan Gandhi
Revenue by	Shri Bhangapatil Pushkaraj Ramesh
Date of Hearing	07/11/2024
Date of Pronouncement	13/11/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 25/07/2024 passed by NFAC, Delhi for the quantum of assessment passed u/s.143(3) for the A.Y.2013-14.

2. In the grounds of appeal assessee has raised following grounds:-

“1.The Ld. CIT (A), NFAC, has erred in not considering the submission and passed the impugned order dated 25.07.2024, in

gross violation of principles of natural justice by passing ex-parte order and not providing sufficient/reasonable opportunity of being heard to the Appellant.

2. The Ld. CIT (A), NFAC, has erred in passing the impugned order dated 25.07.2024, dismissing the appeal for non-prosecution and not dealing with the merits of the case.

3. The assessment order dated 01.03.2016 has been passed in gross violation of principles of natural justice.

4. The Ld. CIT(A) has erred in upholding the addition of Rs 77,75,500 being total credits in the bank account.

5. The Ld. AO has erred in the levying interest under section 234B of the Act.

6. The Ld. AO, has erred in initiating penalty proceeding u/s 274 r.w.s.271(1)(c) of the Act.”

3. Before us ld. Counsel for the assessee submitted that here in this case Assessment Order and CIT(A) order have been passed *exparte* and addition on account of deposits in the bank account have been made of Rs.77,75,500/-. He submitted that the reason for non-compliance of various notices was that assessee was going through various litigations and hardship and other Court cases and he could not comply with the notices. He prayed that in the interest of justice, matter should be restored back to the file of the ld. AO.

4. On the other hand, ld. DR submitted that there has been huge non-compliance of the assessee and it is also not the case that notices have not been received by the assessee. Therefore, the order of the ld. AO and ld. CIT(A) should be confirmed.

5. From the perusal of the order it is seen that both ld. AO and ld. CIT (A) have passed exparte order because assessee could not comply with the notices on the date of hearing. Ld. Counsel has also not denied that assessee did not receive any notices, however, due to unwarranted circumstances and bonafide reasons assessee could not appear or comply with the notices. Although we find that there is a lackadaisical attitude for non-complying the notice, however, in the interest of justice, we are remitting all the issues raised before us to the file of the ld. AO to decide the issue afresh after giving opportunity of hearing to the assessee and assessee is also directed to cooperate in the assessment proceedings and substantiate its case. Since there was non-cooperative attitude by the assessee leading to waste of so much time and efforts of the department for sending so many notices, therefore, by way of punitive action we are levying cost of Rs.5000/-. Accordingly, appeal of the assessee is allowed for statistical purposes.

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

Order pronounced on 13th November, 2024.

Sd/-
(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai; Dated 13/11/2024
KARUNA, *sr.ps*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai