

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

**BEFORE SHRI BR BASKARAN, ACCOUNTANT MEMBER  
AND  
SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER**

**ITA No.4095/M/2024  
Assessment Year: 2016-17**

<b>M/s. Scheme A of ARCIL CPC 033 II Trust,</b> The Ruby, 10 <sup>th</sup> Floor, 29, Senapati Bapat Marg, Dadar, Mumbai Maharashtra - 400 028 <b>PAN: AAHTS8164N</b>	Vs.	<b>The Income Tax Officer-21(3)(2),</b> Piramal Chambers, Lalbaug, Parel, Mumbai Maharashtra - 400 012
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Jeet Kamdar, Ld. A.R.

Revenue by : Shri Swapnil Sawant, Ld. Sr. AR

Date of Hearing : 19.11.2024

Date of Pronouncement : 27.11.2024

**ORDER**

**Per : Narender Kumar Choudhry, Judicial Member:**

This appeal has been preferred by the Assessee against the order dated 15.05.2023, impugned herein, passed by the National Faceless Appeal Centre/Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2016-17.

**2.** In the instant case, vide assessment order dated 28.12.2018 u/s 143(3) of the Act the income of the Assessee was assessed at

Rs.84,62,049/- as against the returned loss of Rs.6,11,792/- and the addition of Rs.90,73,841/- was also made by the Assessing Officer (AO).

**3.** The Assessee, being aggrieved against the assessment order filed first appeal, before the Ld. Commissioner on 19.01.2019, whereby in Form no.35 email address of Mr. Arindam Biswas, the then Vice President, Finance was mentioned. However, Mr. Arindam Biswas left the Assessee's organization in the month of August 2022 which resulted into not receiving the notices sent by the Ld. Commissioner to the Assessee. Recently the Assessee has received a notice dated 29.07.2024 for recovery of outstanding demand raised vide order dated 28.12.2018 in pursuance to the assessment order dated 28.12.2018 u/s 143(3) of the Act. The recovery notice was forwarded to the chartered accountant firm in order to file the appeal, who somehow filed the instant appeal.

**4.** We observe from the impugned order that in spite of sending various notices during the assessment proceedings before the Ld. Commissioner the Assessee remained to be represented. Though the reason for not receiving the notices due to email address provided by Mr. Arindam Biswas, does not inspire confidence, however, it seems to be probable cause as the Assessee has filed appeal on 19.01.2019 which was ultimately decided on 15.05.2023. During the said period of appellate proceedings, Covid-19 period was also involved. Hence, considering the peculiar facts and circumstances as the appeal of the Assessee also remained to be adjudicated in its right perspective and on merits and therefore for the just decision and substantial justice, we are inclined to set aside the impugned order and consequently remanding the instant case to the file of the Ld. Commissioner for decision afresh, suffice to say by affording reasonable opportunity to the Assessee.

The Assessee is also directed to update its latest correspondence address, email as well as mobile number in the ITBA portal and before the Ld. Commissioner and the Tribunal as well.

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

**Order pronounced in the open court on 27.11.2024.**

**Sd/-  
(BR BASKARAN)  
ACCOUNTANT MEMBER**

**Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER**

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.