

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

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

**ITA No.5155/M/2024
Assessment Year: 2018-19**

Shri Asger Abdulhusein Gandhi, Ground Floor, Fazila House, 104, Raja Ram Mohan Roy Road, Prarathana Samaj, Mumbai Maharashtra - 400 004 PAN: AAAPG9914H	Vs.	Commissioner Of Income Tax (Appeals) National faceless Appeal Center, Delhi
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Sharad Lad, Ld. C.A.
Revenue by : Shri Srinivas P., Sr. A.R

Date of Hearing : 26.11.2024
Date of Pronouncement : 26.11.2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 31.07.2024, 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. 2018-19.

2. In this case, the Assessing Officer (AO), due to non-compliance of the Assessee despite affording various opportunities, was constrained to pass the ex-parte assessment order dated 28.04.2021 u/s 144 r.w.s. 144B of the Act on best judgment and ultimately made the additions of Rs.11,56,000/- as unexplained cash credit u/s 68 r.w.s. 115BBE of the Act and Rs.54,42,000/- as income from other sources and added the same in the income of the Assessee.

3. The Assessee, being aggrieved, challenged the said additions before the Ld. Commissioner, however in spite of granting various opportunities, has not filed any documentary evidence in order to substantiate his claim and consequently failed to discharge the onus of substantiating its claim and therefore the Ld. Commissioner affirmed the aforesaid additions by dismissing the appeal of the Assessee.

4. The Assessee, being aggrieved, is in appeal before this Court. This Court has given thoughtful considerations to the peculiar facts and circumstances of the case. It appears from the assessment order that the assessment proceedings were carried out during the Covid-19 period and therefore reasonable cause for not filing relevant documents, due to Covid-19 period. However, the Assessee is submitting the relevant documents before this Hon'ble Court, which can be considered for proper and just decision of the case as the same are very much relevant.

5. On the contrary, the Ld. D.R. refuted the claim of the Assessee by submitting that the Assessee has also failed to submit the relevant documents before the Ld. Commissioner, though proper opportunity was granted to the Assessee by the Ld. Commissioner.

6. Having heard the parties and perused the material available on record it is observed that the explanation submitted by the Assessee for non-appearance/non-compliance before the AO prima-facie appears to be genuine as during that period the entire nation was on hold due to Covid-19. However non-submission of the documents before the Ld. commissioner due to mis-communications with the erstwhile legal advisor/consultant as claimed by the Assessee, does not appear to be logical.

Considering the peculiar facts and circumstances in totality and the conduct of the Assessee and the fact that the issues involved remained to be adjudicated in its right perspective and proper manner, hence, for the just decision and substantial justice, this Court deem it appropriate to set aside the impugned order and to remand the case to the file of the Ld. Commissioner for decision afresh, however, subject to deposit of Rs.1100/- in the Revenue Department under "other heads" and without claiming any disallowance/exemption of the same, but within 30 days from the receipt of this order. Thus, the case is remanded to the file of the Ld. Commissioner accordingly.

7. In the result, the appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced in the open court on 26.11.2024.

**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.