

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER  
AND  
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.3512/M/2024  
Assessment Year: 2014-15**

<b>M/s. Shankar Traders,</b> 1 Yogesh Niketan, Poona Link Road Kolsawadi, Kalyan, Maharashtra- 421301 <b>PAN: ABPFS5103E</b>	Vs.	<b>ITO, Ward-3(1),</b> 2 <sup>nd</sup> Floor, Rani Mansion, Murbad Road, Kalyan, Maharashtra-421301
(Appellant)		(Respondent)

**Present for:**

Assessee by : None  
Revenue by : Ms. Nayana Krishnakumar, Ld. Sr. A.R.

Date of Hearing : 28 . 08 .2024  
Date of Pronouncement : 28 . 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 14.05.2024, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ 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. 2014-15.

**2.** Though notice for the date of hearing on 28.08.2024 was sent to the Assessee, however, none appeared on behalf of the Assessee nor filed any adjournment. Therefore, we are constrained to decide this appeal by passing this ex-parte order.

**3.** In the instant case the penalty to the tune of Rs.373472/- u/s 271(1)(c) of the Act was levied for furnishing inaccurate particular of

income to the extent of Rs.12,08,649/- vide order dated 25.05.2017 by the Assessing Officer (AO) u/s 271(1)(c) of the Act.

**4.** The Assessee, being aggrieved, challenged the levy of penalty by filing first appeal before the Ld. Commissioner, however, in spite of affording various opportunities failed to comply with the notices sent and eventually has not filed any reply/documents in support of its claim and therefore in the constraint circumstances the Ld. Commissioner dismissed the appeal of the Assessee by upholding the levy of penalty.

**5.** We have given thoughtful considerations to the peculiar facts and circumstances of the case. It appears from the impugned order that the Assessee had challenged the penalty order dated 25.05.2017 by filing appeal before the Ld. Commissioner on 26.06.2017 which was taken into consideration only on 17.05.2019, thereafter during Covid-19 period and thereafter after a gap of four years on 16.01.2024, 02.04.2024 & 01.05.2024 and therefore it can be presumed that may be due to miscommunication or non communication of the notices the Assessee remained unrepresented/uncomplied with. Hence, considering the peculiar facts and circumstances in totality as the issue involved in the instant appeal remained to be adjudicated in its right perspective and therefore for the just decision of the case and substantial justice, we are inclined to set aside the impugned order and to remand the instant case to the file of the Ld. Commissioner for decision afresh, suffice to say by affording reasonable opportunity to the Assessee to substantiate its claim. Thus the case is remanded accordingly.

**6.** We clarify that in case of subsequent default, the Assessee shall not be entitled for any leniency.

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

**Order pronounced in the open court on 28.11.2024.**

**Sd/-  
(RATNESH NANDAN SAHAY)  
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.