

IN THE INCOME TAX APPELLATE TRIBUNAL “E” BENCH, MUMBAI

BEFORE MS. KAVITHA RAJAGOPAL, JM AND
SHRI OMKARESHWAR CHIDARA, AM

ITA Nos. 5272 & 5273/Mum/2024
(Assessment Years:2011-12 & 2010-11)

HV Goradia HUF C-704, Jash Enclave, Govind Nagar, Sodawala Lane, Borivali (W), Mumbai-400 092	Vs.	ITO-32(1)(5) Aaykar Bhavan, Mumbai-400 020
PAN/GIR No. AAAHH 0473 E		
(Assessee)	:	(Respondent)

Assessee by	:	ShriTarang Mehta
Respondent by	:	Ms. Sudha Ramachandran

Date of Hearing	:	14.11.2024
Date of Pronouncement	:	14.11 .2024

ORDER

Per Kavitha Rajagopal, J M:

These appeals have been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short),National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Years ('A.Y.' for short) 2011-12 and 2010-11.

2. As the facts in both the appeals are common, we hereby take ITA No. 5272/Mum/22024 as a lead case.

ITA No. 5272/Mum/2024 (A.Y. 2011-12)

3. The assessee has raised the following grounds of appeal:

- The CIT(A) has erred in confirming the order of the learned Assessing Officer without affording sufficient opportunity of hearing, thereby, violating principles of natural justice.*
- The CIT(A) has erred in confirming the disallowance @ 30 per cent being Rs.71,07,635/- out of the total purchases of Rs.2,36,92,115/- by holding it to be non – genuine.*

3. *The CIT(A) has erred in law and on facts in confirming the reopening of assessment under section 147 of the Act which is bad in law.*

4. The brief facts are that the assessee is a Hindu Undivided Family engaged in the business of trading and had filed its return of income for the year under consideration on 30.08.2011, declaring total income of Rs.2,49,940/- and the same was processed u/s. 143(1) of the Act. The assessee's case was reopened u/s.147 of the Act by issuing notice u/s. 148 of the Act dated 21.03.2015. The notices u/s. 143(2) and 142(1) of the Act were duly issued and served upon the assessee.

5. The Id. Assessing Officer ('A.O.' for short) then passed the assessment order u/s. 143(3) r.w.s. 147 of the Act on 22.01.2016, thereby determining the total income at Rs.73,57,580/-.

6. The assessee was in appeal before the first appellate authority, challenging the assessment order.

7. The Id. CIT(A) vide order dated 08.08.2024, upheld the order of the Id.A.O. for the reason that inspite of several opportunity the assessee has failed to substantiate its claim and has been non compliant throughout the appellate proceedings.

8. The assessee is in appeal before us, challenging the impugned order of the Id. CIT(A).

9. We have heard the rival submissions and perused the materials available on record. It is observed that the assessee has challenged the additions made by the Id. A.O. before

the first appellate authority but has been non compliant throughout the appellate proceeding.

10. The learned Authorised Representative ('ld. AR' for short) for the assessee contended that the assessee has got a good case on the merits and prayed that the assessee may be given one more opportunity to present its case before the ld. CIT(A).

11. The learned Departmental Representative ('ld.DR' for short) vehemently opposed to setting aside the issue to the file of the ld. CIT(A) for the reason that the assessee was given several opportunity by the ld. CIT(A) which was not availed by the assessee.

12. On the above factual matrix of the case, we are of the considered view that the assessee may be given one more opportunity to present its case before the first appellate authority by adhering to the principles of natural justice. We, therefore, remand all these issues back to the file of the ld. CIT(A) for *de novo* adjudication. The assessee is directed to comply with the proceedings without any undue delay on its side.

ITA No. 5273/Mum/22024 (A.Y. 2010-11)

13. The findings in ITA No. 5272/Mum/22024 (A.Y. 2011-12) will apply *mutatis mutandis* to this appeal also.

14. In the result, the appeals filed by the assessee are allowed for statistical purpose.

Order pronounced in the open court on 14.11.2024

Sd/-
(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER

Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Mumbai; Dated : 14.11.2024

Roshni Sr. Ps.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai