

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH: BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND  
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.2093/Bang/2024
Assessment Years: 2015-16

Mr. Mohammed Amer UI Haq, Prop : New Royal Chailya Stores Main Road, Chitra Corner, Bidar – 585 401.  <b>PAN – AFWPH 3746 K</b>	Vs.	The Income Tax Officer, Ward – 1, Bidar.
APPELLANT		RESPONDENT

Assessee by	:	Shri Vinod – Advocate
Revenue by	:	Shri Subramanian S, JCIT

Date of hearing	:	09.12.2024
Date of Pronouncement	:	10.12.2024

**ORDER**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

This is an appeal filed by the revenue against the order passed by the NFAC, Delhi dated 16/08/2024 vide DIN No. ITBA/NFAC/S/250/2024-25/1067673623(1) for the assessment year 2015-16.

2. The assessee had failed to respond to the multiple notices issued by the learned CIT-A, which were intimating the date of hearing. As a result of the non-compliance, the learned CIT-A proceeded to confirm the order of the AO, without considering the submissions and materials that could have been presented by the assessee.

3. The assessee has now approached this Tribunal, explaining that the earlier non-compliance was not intentional, and undertakes to fully cooperate with the CIT-A for the purpose of fresh adjudication. The assessee has sought remittance of the matter to the CIT-A for fresh adjudication, with an assurance of making all necessary compliance.

4. The learned counsel for the assessee submitted that the failure to respond to the notices of the CIT-A was due to reasons beyond the control of the assessee, including non-receipt of email. The assessee has now undertaken to comply with all the procedural requirements and to furnish the necessary documents and information for a proper hearing. The learned counsel for the assessee emphasized the principles of natural justice and urged that the case be remitted to the learned CIT-A for fresh adjudication on merits after giving the assessee a reasonable opportunity to present his case.

5. The learned Departmental Representative (DR) supported the order of the Id. CIT-A, submitting that despite multiple opportunities being given, the assessee had failed to comply, and therefore the order passed by the CIT-A confirming the AO's order should be upheld. The DR further argued that the appeal should be dismissed, as the assessee had not shown sufficient cause for the failure to appear before the Id. CIT-A.

6. We have carefully considered the submissions made by both the parties and perused the relevant materials on record. The issue before us is whether the assessee should be granted an opportunity to present

its case before the Id. CIT-A, considering that the non-compliance in the past was not willful or intentional.

6.1 In the interest of justice and fairness, we are inclined to give the assessee one more opportunity to present its case and make the necessary compliance before the learned CIT-A. It is well-settled that the principles of natural justice should be adhered to, and the assessee should not be denied the right to be heard unless there are compelling reasons for doing so. The assessee's undertaking to cooperate fully with the CIT-A in the fresh proceedings indicates a willingness to comply with the procedural requirements.

6.2 Hence, in light of the above discussion, it is clear that the assessee should not be denied a chance to present its case before the learned CIT-A. We find that the assessee's failure to comply earlier can be attributed to factors that were not deliberate, and the assessee is now making a genuine effort to cooperate with the proceedings. Therefore, we are of the opinion that the principles of natural justice demand that the matter be restored to the CIT-A for a fresh adjudication, with an opportunity for the assessee to present its case.

6.3 In view of the above, we set aside the order of the learned CIT-A and restore the matter to his file for fresh adjudication on merits. The learned CIT-A is directed to provide the assessee with a reasonable opportunity to present its case, and to take into consideration all the necessary documents and submissions to be provided by the assessee. The assessee is hereby directed to comply with the notices and requirements of the CIT-A and attend the hearings as scheduled. We

make it clear that no further adjournments shall be granted without justifiable reasons. Hence, the ground of appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in court on 10<sup>th</sup> day of December, 2024

Sd/-

**(PRAKASH CHAND YADAV)**  
Judicial Member

Sd/-

**(WASEEM AHMED)**  
Accountant Member

Bangalore  
Dated, 10<sup>th</sup> December, 2024

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore