

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'F' BENCH
MUMBAI**

**BEFORE: SHRI AMARJIT SINGH, ACCOUNTANT MEMBER
&
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 5536/MUM/2024
(Assessment Year : 2015-16)**

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| Vilas Raghunath Patil 333 Ratnadeep, Kasar Ali Gokul Nagar, Bhiwandi, Maharashtra-421302 | Vs. | NFAC, Delhi/ITO, Ward-1(4), Kalyan Mohan Plaza, Wayle Nagar, Khadakpada, Kalyan (W)- Maharashtra-421301 |
| PAN/GIR No. AAXPP8543J | | |
| (Appellant) | .. | (Respondent) |

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|------------------------------|----------------------|
| Assessee by | Ms. Neha Paranjpe |
| Revenue by | Shri Nishant Somaiya |
| Date of Hearing | 09/12/2024 |
| Date of Pronouncement | 13/12/2024 |

आदेश / ORDER

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 30.07.2024 passed in Appeal no. NFAC/2014-15/10055717 by the Ld. Commissioner of Income-tax(Appeals)/ National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-Tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment year [A.Y.]

2015-16, wherein Ld. CIT(A) has dismissed assessee's appeal exparte.

2. Briefly stated facts are that the assessee e-filed return of income on 31.03.2017 for AY 2015-16, declaring total income of Rs. 36,38,140/-. The assessee was found to have made declaration of his income u/s 183 of Finance Act, 2016 under Income Declaration Scheme, 2016 (IDS) and also submitted form No. 1 in the office of the Principal Commissioner of Income Tax (PCIT) - 2, Thane, declaring total undisclosed income of Rs. 1,34,60,107/- for AY 2015-16. However, the assessee failed to pay tax liability on the income disclosed and also failed to respond to the show cause notice issued by the PCIT-2, Thane. The assessment was reopened and the proceedings u/s 147 of the Act were initiated in respect of escaped income. A notice u/s 148 of the Act was issued and served upon the assessee. The assessee did not file return of income in pursuance to the notice u/s 148 of the Act. Statutory notice u/s 142(1) was issued. Thereafter, a notice u/s 144 of the Act was also issued but assessee did not respond. Ld. AO, therefore, completed the assessment on the basis of assessee's declaration u/s 183 of the Finance Act, 2016 and assessed total income at Rs.

3,86,48,140/-. Aggrieved, the assessee filed an appeal before Ld. CIT(A), who dismissed assessee's appeal exparte.

3. The assessee has filed this appeal before this Tribunal on the ground that the said additions have been made merely by placing reliance on the declaration made by the assessee under IDS, 2016 in gross violation of the principle of natural justice.
4. At the very outset, Ld. Authorized Representative (AR) for the assessee has informed that the appeal was filed by a delay of 24 days. It is stated that due to some dispute with the earlier tax consultant, the assessee appointed another tax professional to attend the appellate proceedings. Notices of hearing were sent to the email of the assessee's erstwhile tax consultant, so the assessee could not receive the same. It was only in the first week of October, 2024, after contacting the erstwhile tax consultant, it was noticed that the exparte order was passed by the NFAC. The assessee has submitted an affidavit to this effect and prayed to condone the delay.
5. Considering the aforesaid reasons and in the interest of justice, we deem it just and proper to condone the said delay in filing this appeal. The delay is accordingly condoned.

6. Ld. AR has further submitted that due to the reasons disclosed in assessee's affidavit, the assessee could not attend proceedings before the first appellate authority, resulting in the exparte impugned order. Prayed to set aside the impugned exparte order.
7. Ld. DR has submitted that the assessee did not participate in the proceedings before the first appellate authority, despite various notices issued and served upon the assessee and supported the impugned order.
8. We notice that the learned CIT(A) had issued notices on six different occasions, however appellant assessee did not comply notices and made no endeavor to make submission before the learned CIT(A). However, in the interest of justice and fair play, we find it appropriate to afford an opportunity to the assessee and remit the matter back to the file of learned CIT(A) for denovo adjudication afresh on merit. We further direct the assessee to be diligent and cooperative in attending the hearings and making submissions before the first appellate authority for the expeditious and effective disposal of the appeal. Assessee shall refrain from seeking any adjournment but for compelling and unavoidable circumstances. Needless to say, that learned CIT(A) shall ensure the observance of the principles of natural justice. It

is made clear that we have not made any observation on the merits of the case. The appeal is liable to be allowed accordingly.

9. In the result, the appeal is allowed. Impugned order dated 30.07.2024 is set aside. The case is restored back to the file of the learned CIT(A) for statistical purposes.

Order pronounced on 13.12.2024.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Mumbai; Dated 13/12/2024
Anandi Nambi, *Steno*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai