

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

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER

ITA No. 5378/Mum/2024
Assessment Year : 2012-13

Kantilal Damji Gada, 402, Eldora Apartment, Juhu Church Road, Juhu, Mumbai. PAN : AABPG8454D	vs.	Income Tax Officer-25(2)(5), Kautilya Bhavan, Bandra Kurla Complex, Bandra East, Mumbai.
(Appellant)		(Respondent)

For Assessee :	Shri Vipul Shah
For Revenue :	Shri Virabhadra Mahajan, Sr.DR

Date of Hearing :	26-12-2024
Date of Pronouncement :	26-12-2024

ORDER

The assessee has filed this appeal challenging the order dated 23-08-2024 passed by the Ld. Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)’] and it relates to AY.2012-13.

2. The learned counsel appearing for the assessee submitted that the assessment of the year under consideration was re-opened by the AO on the basis of an information obtained in search the action u/s. 132 of the Income Tax Act, 1961 (‘the Act’) conducted in the case of M/s. Evergreen Enterprises. He submitted that the assessee had entrusted the job of handling income tax matters to a consultant, but the said consultant failed to appear before the AO as well as the Ld.CIT(A). Hence, both the authorities have passed the orders *ex-parte*, without

presence of the assessee. The Ld.AR submitted that the addition has been made by the AO, only for want of information and the assessee would be in a position to furnish the same to the AO, if an opportunity is given. Accordingly, the Ld.AR prayed that the matter may be restored to the file of the AO for examining all the issues afresh.

3. The Ld.DR, on the contrary, submitted that the assessee has failed to appear before the Ld.CIT(A), despite giving several opportunities and hence, the matter may be restored to the file of the Ld.CIT(A).

4. I heard the parties and perused the record. I notice that the AO was constrained to pass the order to the best of his judgment u/s. 144 of the Act, since the assessee did not appear before him. Similarly, the Ld.CIT(A) has passed the *ex-parte* order, since none appeared before him despite issuing several notices. Accordingly, in the interest of natural justice, I am of the view that the assessee may be provided with one more opportunity to present his case properly before the Ld.CIT(A). Accordingly, I set aside the order of the Ld.CIT(A) and restore all the issues to his file for examining the same afresh, after affording adequate opportunity of being heard to the assessee. I also direct the assessee to fully co-operate with the Ld.CIT(A) for expeditious disposal of the issue.

5. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 26-12-2024

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai, Date: 26-12-2024

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Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "SMC" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai