

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH “SMC”, MUMBAI  
BEFORE SHRI B R BASKARAN, ACCOUNTANT MEMBER  
AND  
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER  
ITA NO. 4903/MUM/2024 (A.Y: 2011-12)**

**Bharat Popatlal Gada,**  
A-703, Orbit Tower Garodia Nagar  
Ghatkopar East, Maharashtra –  
400 077

**PAN: ADKPG9955H**

**(Appellant)**

**Vs. ITO Ward 23(3)(1),**  
ITO, Kautilya Bhavan, Bandra  
Kurla Complex, Bandra (East),  
Mumbai-400 051

**(Respondent)**

<b>Assessee Represented by</b>	<b>: Shri Vipul Shah, Ld. AR</b>
<b>Department Represented by</b>	<b>: Shri Umesh Sinha, Ld. DR</b>
<b>Date of conclusion of Hearing</b>	<b>: 14.11.2024</b>
<b>Date of Pronouncement</b>	<b>: 26.11.2024</b>

**ORDER**

**PER RAJ KUMAR CHAUHAN (J.M.):**

1. This appeal is filed by the appellant/assessee against the order of Learned Commissioner of Income Tax (Appeals) /Addl. JCIT – 1, Chandigarh [hereinafter referred to as the “CIT(A)”], passed under section 250 of the Income Tax Act, 1961 [hereinafter referred to as “the Act”] dated 21.08.2024 for the A.Y. 2011-12, wherein the Ld. CIT(A) has



dismissed the appeal ex parte as despite services of notice, the assessee failed to present its case before the Ld. CIT(A).

2. It was argued on behalf of the appellant/assessee that the notice issued by the Ld. CIT(A) were never received or served upon the assessee and as such they could not present its case before the Ld. CIT(A) who proceeded ex parte and decided the appeal on merit without giving effective opportunity of hearing to the assessee and as such the assessee was prevented from present its case before the Ld. CIT(A). Therefore, the impugned order suffers from illegality and liable to be set aside. The Ld. DR on the other hand supporting the judgment of the Ld. CIT(A) stating that there is no merit in the appeal and same is liable to be dismissed.

3. We have considered the rival submissions. Section 250 sub section 2(a) of "the Act" provides as under:

*“Section 250 (2) The following shall have the right to be heard at the hearing of the appeal: -*

*a. The appellant, either in person or by an authorised representative;”*



4. It is evident from the provision that the hearing to be given is not a formality but an effective hearing is sine qua non for the purpose of upholding the principal of natural justice. We have examined the impugned order of the Ld. CIT(A) observed as under: -

*“The details of opportunities of being heard provided to the assessee, but the assessee has failed to comply the notices and no any written submission has been filed, which are tabulated below for ready reference:*

<i>Sr. No.</i>	<i>Date of notice issued</i>	<i>Date of hearing</i>
<i>1</i>	<i>04.02.2021</i>	<i>19.02.2021</i>
<i>2.</i>	<i>09.02.2024</i>	<i>19.02.2024</i>
<i>3.</i>	<i>20.02.2024</i>	<i>27.02.2024</i>
<i>4</i>	<i>12.03.2024</i>	<i>20.03.2024</i>
<i>5</i>	<i>31.07.2024</i>	<i>12.08.2024</i>

5. It is thus evident from the contents of the impugned order extracted above that no effective opportunity of hearing has been given and there is no proof that the notice sent on various dates were duly served or brought to the notice of the appellant/assessee.
6. For these reasons, we are of the considered opinion that matter needs to be restored to the file of the Ld. CIT (A) for giving effective hearing to the assessee who shall present its case before the Ld. CIT(A) within 60 days.



The impugned order is accordingly set aside and appeal filed by the assessee is allowed in above terms.

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

**Order pronounced in the open court on 26.11.2024**

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

Mumbai / Dated 26.11.2024  
*Dhananjay, Sr.PS*

**Sd/-**  
**(RAJ KUMAR CHAUHAN)**  
**(JUDICIAL MEMBER)**

**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**