

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “F”, MUMBAI
BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
AND
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER
ITA NO. 5349/MUM/2024 (A.Y: 2017-18)**

Jethalal Gopalji Bhanushali
C/O Shamji Bhanushali, Chartered
Accountants, 339 Big Splash, Sector-
17, Vashi State Maharashtra Pin
Code 400703
PAN: AKGPB1414R
(Appellant)

Vs. ITO 28(1)(4),
Room No. 330, 3rd Floor,
Tower No.6, Vashi Railway
Station Commercial Complex,
Vashi, Maharashtra
Pin Code 400703
(Respondent)

Assessee Represented by : **Shri Vimal Punamiya, Ld.
AR**

Department Represented by : **Ms. Kanupriya Damor,
Ld. DR**

Date of conclusion of Hearing : **01.01.2025**

Date of Pronouncement : **06.01.2025**

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(A)-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. 2017-18, 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 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>31.10.2023</i>	<i>15.11.2023</i>
<i>2</i>	<i>14.02.2024</i>	<i>22.02.2024</i>
<i>3</i>	<i>23.02.2024</i>	<i>04.03.2024</i>
<i>4</i>	<i>12.03.2024</i>	<i>20.03.2024</i>
<i>5</i>	<i>05.08.2024</i>	<i>13.08.2024</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 06.01.2025.

Sd/-
(OM PRAKASH KANT)
(ACCOUNTANT MEMBER)

Mumbai / Dated 06.01.2025
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