

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

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

**ITA No.1246/M/2024
Assessment Year: 2017-18**

Shri Dilip Champalal Jain, 1701, A-Wing, Shankheshwar Darshan, Seth Motisha Lane, Behind Telephone Exchange, Mazgaon, Mumbai Maharashtra - 400 010 PAN: AAAPJ8326Q	Vs.	Income Tax Officer- 23(1)(6), Room 615, Piramal Chamber, Lalbaug, Mumbai, Maharashtra - 400012
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Jigar Mehta, Ld. A.R.
Revenue by : Shri Gotimukul Santosh Kumar, Sr.
D.R

Date of Hearing : 07.01.2025
Date of Pronouncement : 07.01.2025

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 27.01.2024, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2017-18.

2. The Ld. Counsel for the Assessee has submitted that the impugned order is an ex-parte, as the notices issued to the Assessee through email remained to be checked by the Assessee, as the Assessee is not well acquainted with the online services. The Assessee in the form No.36 has also opted for not serving the notices through email in the respective column however still notice were sent on e-mail, which resulted into non-compliance and passing of ex-parte impugned order and therefore the in the interest of justice, the case may be remanded to the file of the Ld. Commissioner for decision afresh.

3. On the contrary, the Ld. D.R. refuted the claim of the Assessee has demonstrated and claimed that the conduct of the Assessee is totally irresponsible and non-compliant. as it appears from the assessment order as well, that though 8 notices were issued to the Assessee, however, the Assessee made no compliance, which resulted into passing the assessment order as ex-parte u/s 144 of the Act and therefore the Assessee is not entitled for any lenient view and thus the appeal may be dismissed.

4. Having heard the parties and perused the material available on record, this Court found that the Assessee before the Assessing Officer (AO) and the Ld. Commissioner, remained non-complaint even in spite of sending various notices. It is not the case of the

Assessee that the Assessee has not received any notices on email. The Assessee has simply claimed that he is not much acquainted with the online portal/mechanism etc. Considering the peculiar facts and circumstances in totality, this Court is of the considered view that the Assessee is not entitled for any relief as prayed for as the conduct of the Assessee clearly appears from the orders passed by the authorities below, however, considering the another aspect of the case that the assessment order has been passed u/s 144 of the Act and thereafter the impugned order is also an ex-parte. Eventually, in the absence of relevant documents/reply/submissions which the Assessee has failed to file, the issues involved this case remained to be adjudicated in its right perspective and proper manner and therefore for the just decision of the case and substantial justice, this Court is inclined to remand the instant case to the file of the Ld. Commissioner, however, subject to deposit of Rs.11,000/- within 15 days from today in the Revenue Department under "other heads" without claiming any exemption/deduction of this amount. Thus, the case is accordingly remanded to the file of Ld. Commissioner in the aforesaid terms.

6. The Assessee is directed to file the relevant reply/submissions which would be required and/or essential for proper adjudication of the issues involved. It is clarified that in case of subsequent default, the Assessee shall not be entitled for any leniency.

7. In the result, the appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced in the open court on 07.01.2025.

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.