

IN THE INCOME TAX APPELLATE TRIBUNAL

NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

SMC MATTER

ITA no.264/Nag./2024

(Assessment Year : 2017-18)

Hameeda Arif Lalani
Uday Country Liquor Sho
Bori Arab, Taluka Darwaha
Dist. Yavatmal 445 202
PAN ACLPL8073F

..... Appellant

v/s

Income Tax Officer
Ward-2, Yavatmal

..... Respondent

Assessee by : Shri P.M. Gandhi
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 06/02/2025

Date of Order – 25/02/2025

ORDER

This appeal by the assessee is emanating from the impugned order dated 16/02/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2017-18.

2. The learned CIT(A) has passed ex-parte order, which reads as under:-

"4. Decision: I have carefully considered the facts on record, the assessment order, Grounds of appeal and statement of facts furnished by the appellant with the appeal memo.

4.1 As stated in earlier paragraph of this appeal order, this office has issued various notices for hearing/filing written submission but neither any adjournment letter was filed by the appellant nor any written submissions

were submitted. The notices were issued on emails available in the ITBA Module of the Income Tax Department i.e. pmgandhi_eitr@rediffmail.com, PMGANDHI_CO@REDIFFMAIL.COM, ariflalani2012@yahoo.com, sunilbrathod69@gmail.com, and duly served upon. In fact, a show cause was also issued on 30.01.2024, which is as under:-

"Subject:- Show Cause Notice before completing the appellate proceeding reg.

"It is seen from the record that several notices/letters for hearing/filing written submission were issued but you have not responded to these notices/letters. The details as such notices are as under.

<i>Date of Notice / Letter</i>	<i>Date of Service</i>
<i>07.01.2021</i>	<i>07.01.2021</i>
<i>04.11.2022</i>	<i>04.11.2022</i>
<i>19.01.2024</i>	<i>19.01.2024</i>

2. During the course of hearing, learned Counsel, Shri Gandhi, appearing for the assessee admitting lapse on the part of the assessee for not appearing before the learned CIT(A), however, he pleaded that if this Court grants the assessee one opportunity by restoring this appeal to the file of the learned CIT(A), so that the assessee is able to substantiate its case before the first appellate authority. Therefore, he prayed that the appeal be restored to the file of the learned CIT(A).

3. On the other hand, the learned D.R. submitted that despite the learned CIT(A) provided sufficient opportunities to the assessee, however, the assessee did not appear before the learned CIT(A) and not furnished relevant details. He strongly supported the orders passed by the learned CIT(A).

4. I have heard both the learned Counsel for the parties, perused the materials available on record and gone through orders of the authorities below. I find that though the learned CIT(A) granted opportunities to the

assessee to substantiate its case, ultimately, the order passed by him is an ex-parte order. Therefore, I am of the opinion that by following the principles of natural justice, one opportunity should be given to the assessee to substantiate the case before the learned CIT(A). In view of the above, the impugned order passed by the learned CIT(A) is set aside and remit the back matter to the file of the learned CIT(A) and direct him to adjudicate the matter afresh on merit and in accordance with law after providing reasonable opportunity of being heard to the assessee. It is also directed that the assessee should not seek adjournment without there being a justified reason. Accordingly, all the grounds raised by the assessee in this appeal are allowed for statistical purposes.

5. In the result, assessee's appeal stands allowed, but for statistical purpose only.

Order pronounced in the open Court on 25/02/2025

NAGPUR, DATED: 25/02/2025

**Sd/-
V. DURGA RAO
JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur