

IN THE INCOME TAX APPELLATE TRIBUNAL

NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

SMC MATTER

ITA no.88/Nag./2022

(Assessment Year : 2015-16)

Abhishek Golecha
10, Prithvi Vandan, Nagpur 440 010
PAN – AENPG1584L

..... Appellant

v/s

Income Tax Officer
Ward-1(2), Nagpur

..... Respondent

Assessee by : Shri Kapil Hirani
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 12/02/2025

Date of Order – 25/02/2025

ORDER

Captioned appeal by the assessee is against the impugned order dated 15/03/2022, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2015-16.

2. While going through the record, I find that during the first appellate proceedings, despite issuance of several statutory notices, the assessee did not appear before the learned CIT(A) and hence the learned CIT(A) dismissed the assessee's appeal by passing an ex-parte order. The conclusion so drawn by the learned CIT(A) are extracted below for ready reference:-

"It is relevant to mention several opportunities are here that during the appellate proceedings provided to the appellant but the appellant/appellant's A.R failed to produce any evidence or proper explanation against the statement of Ld. AO in the Assessment Order u/s. 143(3) passed and also in support of appellant's claim. Even, the appellant did not give any response to the notices issued.

As there is no response to appeal notices, the appeal is liable to be dismissed in terms of verdicts of the Hon'ble Apex Court and the various High Courts. And also in absence of the proper evidence in support of the appellant's claim, I find that the assessment order u/s. 143(3) passed by the AO is justified and acceptable.

In view of the non-compliance and also in view of the statement of fact and the grounds of appeal are not substantiated by any proper statement or evidence. Hence, the appeal is dismissed accordingly by accepting the assessment order passed by the AO.

6. In the result, the appeal is treated as Dismissed."

2. During the course of hearing, learned Counsel, Shri Hirani, 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