

**IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER  
AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 3108/MUM/2024  
Assessment Year: 2014-15**

Mumbai Port Authority (successor to Chairman Mumbai Port Trust Erstwhile Bombay Dock Labour Board) Port Bhavan Shoorji Vallabhdas Marg, Ballard Estate, Mumbai- 400001  (PAN : AAATM5001D)	Vs.	Income Tax Officer (Exem) 1-(2), Mumbai
<b>(Appellant)</b>		<b>(Respondent)</b>

**Present for:**

Assessee : Ms. Kavita, AR  
Revenue : Shri R. R. Makwana, Addl. CIT

Date of Hearing : 29.01.2025  
Date of Pronouncement : 28.04.2025

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

This appeal filed by assessee is against the order of Ld. CIT(A),  
National Faceless Appeal Centre (NFAC), Delhi, vide order no.

ITBA/NFAC/S/250/2024-25/1063961417(1), dated 08.04.2024, passed against the assessment order by Income Tax Officer (Exemption)-1(2), Mumbai, u/s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as the "Act"), dated 27.12.2016, for Assessment Year 2014-15.

2. Grounds taken by assessee are reproduced as under:

*"1. On the facts and circumstances of the appellant's case and in law. Ld. CIT (A) erred in passing an ex- parte order, without providing an opportunity of being heard to the appellant, for the reasons mentioned in the impugned order or otherwise.*

*2. On the facts and circumstances of the appellant's case and in law. Ld. CIT (A) erred in confirming the action of Ld. AO in treating the income shown in the computation amounting to Rs.4,65,46,465/- under the head 'Income from Other sources, for the reasons mentioned in the impugned order otherwise.*

*3. On the facts and circumstances of the appellant's case and in law, Ld. CIT (A) erred in confirming the action of Ld. AO in disallowing the various expense claimed amounting to Rs. 1,84,53,432/- claimed in the computation of total income, for the reasons mentioned in the impugned order otherwise.*

*4. On the facts and circumstances of the appellant's case and in law. Ld. CIT (A) erred in confirming the action of Ld. AO in disallowing the expense claimed amounting to Rs. 81,22,280/- claimed in the computation of total income, for the reasons mentioned in the impugned order otherwise*

*5. On the facts and circumstances of the appellant's case and in law, Ld. CIT (A) erred in confirming the action of Ld. AO in disallowing depreciation amounting to Rs.5,18,541/- claimed in the computation of total Income, for the reasons mentioned in the impugned order otherwise.*

*6. On the facts and circumstances of the appellant's case and in law, Ld. CIT (A) erred in confirming the action of Ld. AO in treating the income from staff quarters amounting to Rs. 14,64,000/- under the head 'Income from House Property for the reasons mentioned in the impugned order otherwise.*

*7. On the facts and circumstances of the appellant's case and in law. Ld. CIT (A) erred in confirming the action of Ld. AO in not reducing the interest income offered on cash basis amounting to Rs. 1,93,97,269/- as claimed in the return of income, for the reasons mentioned in the impugned order otherwise.*

*8. On the facts and circumstances of the appellant's case and in law, Ld. CIT (A) erred in confirming the action of Ld. AO in not allowing set off of brought forward*

*business losses and unabsorbed depreciation against the assessed income, for the reasons mentioned in the impugned order otherwise. "*

3. Brief facts of the case are that assessee filed its return of income on 28.09.2014, reporting total income at 'Nil'. Assessee is subjected to audit by C & AG under section 5C(2) of the Dock Workers (Regulation of Employment) Act, 1948. According to the ld. Assessing Officer, assessee did not claim exemption under section 11 of the Act. It did not file audit report in Form 10B for the same. However, ld. Assessing Officer notes in the impugned order about various submission made by the assessee pursuant to notices issued by him and the proceedings were attended from time to time by the authorised representative. After considering various submissions of the assessee, ld. Assessing Officer completed the assessment at assessed total income of Rs.4,70,27,930/- after making additions and disallowances for which assessee has raised the afore stated grounds of appeal before the Tribunal.

4. At the first appellate stage, from the perusal of the order of ld. CIT(A), it is noted that five notices were issued fixing the date for hearing all of which were in the year 2018, 2019 and 2020. Assessee had filed the appeal on 19.01.2017 against the assessment order dated 27.12.2016. The impugned first appellate order is dated 08.04.2024 which has been passed exparte by the ld. CIT(A) who observed in para 1 that since assessee did not respond to any of the notices, appeal is disposed off after taking into consideration the material available on record. By simply referring to the finding of ld. Assessing Officer from the assessment order, ld. CIT(A) confirmed the additions made by him. There

is no discussion by the ld. CIT(A) on the various submissions which were already on record as made by the assessee in the course of assessment, fact of which is noted in the assessment order itself.

5. We, take note of Section 250 of the Act which provides for procedure to be adopted while disposing of the appeal by the Ld. CIT(A). Sub-section (4) of section 250 of the Act provides that the Ld. CIT(A) may, before disposing of any appeal, make such further inquiry as he thinks fit, or may direct the Assessing officer to make further inquiry and report the result of the same to the Commissioner (Appeals). Further, sub-section (6) provides that the CIT(A) shall pass an order in writing and shall set the points for determination, the decision thereon and the reasons for the decision. Keeping in mind the provision of section 250 of the Act, it is incumbent upon the Ld. CIT(A) to pass a speaking order on the merits of the case by examining, verifying and analyzing the material on record.

6. In view of ground no. 1 raised by the assessee, considering the facts and circumstances of the present case as narrated above, in the interest of justice and fair play, we find it appropriate to remit the matter back to the file of ld. CIT(A) for *denovo* meritorious adjudication of the grounds of appeal raised by the assessee at the first appellate stage by passing a speaking order. Needless to say, that assessee be given reasonable opportunity of being heard and make its submissions to substantiate the claims. We also direct the assessee to be diligent in attending the hearing proceedings and not to seek adjournments unless warranted by compelling reasons so as to expedite the disposal.

Accordingly, ground no. 1 is allowed. Since the matter is remitted back to the file of Id. CIT(A) in terms of aforesaid observations, other grounds raised by the assessee on the merits of the case, needs no adjudication at the present stage.

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

Order is pronounced in the open court on 28 April, 2025

Sd/-  
(Amit Shukla)  
Judicial Member

Sd/-  
(Girish Agrawal)  
Accountant Member

***Dated: 28 April, 2025***

*MP, Sr. P.S.*

**Copy to :**

- 1 The Appellant
- 2 The Respondent
- 3 DR, ITAT, Mumbai
- 4 Guard File
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BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai