

IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER&
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER
ITA No. 4484/MUM/2024 (AY: 2018-19)
(Physical hearing)

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| Raj Mangatram Arora 701, Mehardeep, 14 th Sarojini Road, Santacruz (W), Mumbai – 400054. Ph. 8652748282, e-mail-raj.t.arora@gmail.com Ph. 9821028784 e-mail-subramanian103@gmail.com [PAN: ABJPA2193G] | Vs | ITO, Ward – 13(3)(1), Mumbai Aayakar Bhawan, Maharishi Karve Road, Mumbai – 400020. |
| Appellant / Assessee | | Respondent / Revenue |

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| Assessee by | Mr. N. Subramanian, Advocate |
| Revenue by | Shri Annavaram Kosuri, Sr. DR |
| Date of Institution | 31.08.2024 |
| Date of hearing | 31.07.2025 |
| Date of pronouncement | 10.09.2025 |

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER;

1. This appeal by assessee is directed against the order of Id. CIT(A)/NFAC dated 23.07.2024 for A.Y. 2018-19. The assessee has raised following grounds of appeal:

"1. On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in dismissing the appeal.

2. On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in dismissing the appeal and that too without even giving full and proper opportunity of being heard in the matter.

3. On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in dismissing the appeal and that too without even appreciating fully and properly the facts of the case.

4. On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in dismissing the appeal and thereby upholding the action of the AO

in determining taxable income at Rs. 56,15,014/- as against the returned income of Rs. 10,81,270/-.

5. On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in upholding the action of the AO in making addition of the entire credit card payments of Rs. 44,58,104/- as out of books expenses.

6. On the facts and in the circumstances of the case and in law, the learned AO erred in adding an amount of Rs. 75,640/- claimed exempt and that too without assigning any proper reason."

2. Rival submissions of both the parties have been heard and record perused.

The learned Authorised Representative (Id. AR) of the assessee submits that assessing officer as well as Id. CIT(A) have passed *ex-parte* order without allowing fair and reasonable opportunity. During assessment, it was a severe Covid Pandemic-2019. Before Id. CIT(A), the assessee missed opportunity to file his response to the remand report of assessing officer. The Id. AR of the assessee submits that one more opportunity to be given to the assessee to explain his case before Id. CIT(A). He undertake on behalf of the assessee to be more vigilant in future in making timely compliance. The Id. AR of the assessee also submits that he will submit phone number and email of assessee as well as his email and phone number for the purpose of service of notice by Id. CIT(A) to avoid technical objection in future.

3. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the revenue submits that sufficient opportunity of hearing was given by the lower authorities. The assessee does not deserve any further opportunity before lower authorities as prayed by Id. AR.
4. We have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. We find that assessment was

completed under section 144 on 14.04.2021. The case of assessee was selected for scrutiny on account of "large cash payments for credit card purchases". The assessing officer recorded that three show cause notices were issued to the assessee; however, no details were furnished by the assessee. The assessing officer noted that there is total payment of credit card of Rs. 44,58,104/- out of which Rs. 16,34,000/- is paid in cash. The assessee failed to file explanation to substantiate the expenses, thus, whole of the credit card payment of Rs. 44,58,104/- was added to the total income of the assessee. The assessee further claimed exempt income of Rs. 75,640/- which was not explained; therefore, such amount was also added. The assessing officer made total addition of Rs. 45,33,744/-.

5. Before Id. CIT(A), the assessee filed additional evidence on 13.02.2024. All such evidences are scanned on page no. 4 to 43 of impugned order of Id CIT(A). The evidences of assessee were referred to assessing officer for his remand report. The assessing officer furnished his remand report dated 14.05.2024. The assessing officer in his remand report objected about admissions of additional evidence. It was further objected by the assessing officer that assessee has not proved source and genuineness of transaction in his bank account. The Id. CIT(A) confirmed the action of assessing officer by holding that assessee avoided to furnish complete details of credit card and payment and nature and source of expenses during remand proceeding. The plea of assessee that credit card was misused by caretaker was also not accepted.

6. Before us, the Id. AR of the assessee vehemently urged that he may be allowed one more opportunity to contest the proceeding before lower authorities and to furnish other details/evidence. Considering the fact that assessment was completed under section 144 (ex-parte) and the additions were also upholding by Id. CIT(A) for the want of sufficiency of evidence, therefore, considering the fact that substantial right of assessee are involved in the present appeal. The assessee suffered addition for the want of proper explanation; therefore, matter is restored back to the file of Id. Assessing officer to pass the order afresh. The assessee is given liberty to file additional submission or evidence before assessing officer. Needless to direct that before passing the order afresh, the assessing officer shall allow fair and reasonable opportunity to the assessee. For the purpose of communication of notices, the email and phone number of assessee and his report is recorded in the memo of parties of this order. In the result, ground no. 1 to 3 of appeal is allowed for statistical purposes.
7. Considering the fact that we have restored the appeal back to the file of assessing officer, therefore, consideration of issues on merit has become academic.
8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order was pronounced in the open Court on 10/09/2025.

Sd/-

OMKARESHWAR CHIDARA
ACCOUNTANT MEMBER

Sd/-

PAWAN SINGH
JUDICIAL MEMBER

MUMBAI, Dated: 10/09/2025
Biswajit

Copy of the order forwarded to:

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

By Order

Assistant Registrar
ITAT, Mumbai