

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

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND  
SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER**

**ITA NO. 248/MUM/2023 : A.Y : 2016-17**

Anilkumar Champalal Jain  
Room no. 9, 111A, Opp. Adarsh  
Palace, Old Hanuman Lane,  
Kalbadevi Road, Mumbai 400 002.  
**PAN : AAQPJ9602B** (Appellant)

Vs. ITO – 18(1)(1), Mumbai.  
(Respondent)

**Appellant by : None**  
**Respondent by : Shri Manoj Kumar Sinha**

**Date of Hearing : 03/05/2023**  
**Date of Pronouncement : 03/05/2023**

**ORDER**

**PER B.R. BASKARAN, ACCOUNTANT MEMBER :**

The assessee has filed this appeal challenging the order dated 28.11.2022 passed by the Learned Commissioner of Income Tax (Appeals), (NFAC), Delhi (in short 'Ld. CIT(A)') and it relates to Assessment Year 2016-17. The assessee is aggrieved by the decision of Ld. CIT(A) in confirming the order of Assessing Officer in estimating the income of assessee from share trading transaction at Rs.93.59 lacs.

2. On the date of hearing, a person claiming to be a Chartered Accountant appeared on behalf of the assessee and sought adjournment on the ground that the assessee has moved an RTI application before the Assessing Officer seeking certain information. He did not possess Letter of authority and further, he did not appear in the prescribed dress. Hence the Bench did not recognize his presence.

3. We heard Ld D.R and perused the record. The Ld. DR submitted that the assessee has not appeared before the Assessing Officer as well as the Ld. CIT(A) and hence both the tax authorities have passed the respective orders *ex parte*.

4. On perusal of the assessment order, we noticed that the Assessing Officer has received information that the assessee has sold shares for an amount of Rs.18.71 crores during the year relevant to Assessment Year 2016-17. Since the assessee did not furnish any detail regarding the purchase and sale of shares, the Assessing Officer estimated the income at 5% of the sale value and accordingly assessed a sum of Rs.93,59,330/- under Section 144 of the Income Tax Act, 1961. Before the Ld. CIT(A) also, the assessee did not appear and hence the Ld. CIT(A) confirmed the order passed by the Assessing Officer.

5. Since the assessee has not appeared before any of the tax authorities below, in the interest of justice, we are of the view that the assessee may be provided with an opportunity to present his case properly before the Ld. CIT(A). Since the assessee was delinquent and lethargic in pursuing his matter before the tax authorities, we impose a cost of Rs. 2000/- upon the assessee,

which shall be paid to the credit of the Income Tax Department as 'Other fees' within two months from the date of receipt of this order.

6. Subject to payment of the above cost, which shall be verified by the Ld. CIT(A), all the issues urged before us are restored to the file of Ld. CIT(A) for adjudicating them afresh, after hearing the assessee. We also direct the assessee to co-operate with the Ld. CIT(A) for expeditious disposal of the appeal.

7. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 3<sup>rd</sup> May, 2023.

Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER

Sd/-  
(B.R. BASKARAN)  
ACCOUNTANT MEMBER

Mumbai, Date : 3<sup>rd</sup> May, 2023

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Copy to :

- 1) The Applicant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "A " Bench, Mumbai
- 5) Guard file

By Order

Dy./Asstt. Registrar  
I.T.A.T, Mumbai