

**आयकर अपीलीय अधिकरण, 'एक-सदस्य' न्यायपीठ, मुंबई।**

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "SMC", MUMBAI**

**श्री जोगिन्दर सिंह, न्यायिक सदस्य, के समक्ष  
Before Shri Joginder Singh, Judicial Member,**

**ITA No.6355/Mum/2017  
Assessment Year: 2009-10**

Mr. Rakesh Rambali Shrivastav, Plot No.140, RSC 31/30, Sector-3, Charkop, Kandivali (W) Mumbai-400067	<b><u>बनाम/</u></b> Vs.	Income Tax Officer-31(3)(1), C-13, Pratayakshkar Bhavan, Bandra Kurla Complex, Bandra (East), Mumbai
निर्धारिती / Assessee		राजस्व / Revenue
P.A. No. <b>AABCS1430L</b>		

निर्धारिती की ओर से / Assessee by	Shri Aakriti Seth
राजस्व की ओर से / Revenue by	Ms. N. Hemalatha-DR

सुनवाई की तारीख / <b>Date of Hearing</b>	<b>04/01/2018</b>
<b>आदेश की तारीख /Date of Order:</b>	<b>04/01/2018</b>

**आदेश / O R D E R**

The assessee is aggrieved by the impugned order dated 19/06/2017 of the Ld. First Appellate Authority,

Mumbai, on the addition of Rs.11,19,265/- to the returned income of the assessee unjustifiably deeming the sundry loans received from various persons as undisclosed income of the assessee.

2. During hearing, the ld. counsel for the assessee, Ms. Aakriti Seth, contended that proper opportunity was not provided to the assessee as confirmations were duly filed by the assessee and thus the addition was unjustifiably made. The Ld. counsel also filed a list of confirmations from the concerned person along with relevant details. It was contended that the issue requires fresh adjudication. On the other hand, the ld. DR, Ms. N. Hemalatha, contended that this list was not fully furnished before the Ld. Assessing Officer and only part details were filed.

2.1. I have considered the rival submissions and perused the material available on record. The facts, in brief, are that the assessee claimed to have obtained sundry loans of Rs.11,95,951/- during the relevant financial Year. The assessee furnished the details like confirmations name and addresses along with PAN Card. On verification of the

same, it was found that all the loans were below Rs.20,000/- and are in cash, therefore, their genuineness cannot be verified. On further verification, it was noticed that the assessee filed confirmation for the amount of Rs.11,35,735/- and there was no confirmation for Rs.60,216/-. However, the Ld. Assessing Officer made the addition. It seems that the addition was made on the basis of AIR information that there was cash deposit to the tune of Rs.29,25,000/- in the bank account. If the Ld. Assessing Officer was apprehensive of any mala-fide, nothing prevented him to examine the persons from whom such loans were taken. The genuineness of the loans was the duty of the assessee to explain. No persons should be condemned unheard, thus, without going into much deliberation, this appeal is sent to the file of the Ld. Assessing Officer to examine the claim of the assessee to his satisfaction. The assessee is directed to furnish the necessary details before the Ld. Assessing Officer and if so directed to produce the concerned persons before him. Thus, the appeal of the assessee is allowed for statistical purposes.

Finally, the appeal of the assessee is allowed for statistical purposes.

This order was pronounced in the open court in the presence of ld. representative from both sides at the conclusion of the hearing on 04/01/2018.

**Sd/-**  
(Joginder Singh)  
न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : **04/01/2018**

*Shekhar. P.S/निजी सचिव*

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT, Mumbai.
4. आयकर आयुक्त / CIT- , Mumbai
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai