

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

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER) AND  
SHRI PAVAN KUMAR GADALE (JUDICIAL MEMBER)**

**ITA No. 852/MUM/2020  
Assessment Year: 2013-14**

Poonam Lifestyle,  
201 Panchratna, Opera House,  
Mama Marg,  
Mumbai-400069.

**PAN No. AAJFP 5119 J  
Appellant**

Income Tax Officer-4(3),  
Mumbai  
**Vs.**

**Respondent**

Assessee by : Ms. Priyanka Sharma, AR  
Revenue by : Mr. H.M. Bhatt, DR

Date of Hearing : 01/02/2022  
Date of pronouncement : 03/02/2022

**ORDER**

**PER OM PRAKASH KANT, AM**

This appeal has been preferred by the assessee against the order dated 10.12.2019 passed by the Ld. Commissioner of Income Tax (Appeals)-30, Mumbai [in short 'CIT(A)'] for the assessment year 2013-14, raising following grounds:

1. *On the facts and circumstances of the Appellant's case and in law the Id. CIT (A) erred in passing the impugned ex-parte order without affording the appellant adequate opportunity of being heard.*
2. *On the facts and circumstances of the Appellant's case and in law the Id. CIT (A) erred in holding that the appellant has entered into accommodation entries of bogus unsecured loan through Shri Bhanwarlal Jain merely on the basis of his statement.*

3. *On the facts and circumstances of the Appellant's case and in law the Ld. CIT (A) erred in confirming the action of Id. AO in making an addition of Rs.2,33,00,000 /- by treating the genuine loan as alleged bogus loan.*
4. *On the facts and circumstances of the Appellant's case and in law the Ld. CIT (A) erred in confirming the action of Id. AO in disallowing the claim of interest expenses of Rs. 2,93,863/- on the alleged plea that the same was paid on bogus loan.*
5. *On the facts and circumstance of the Appellant's case and in law the Id. CIT (A) erred in confirming the action of Id. A.O. in disallowing the commission expense of Rs. 46,600/- on the alleged plea that the same was paid on bogus loan.*
6. *The appellant craves leaves to alter, amend, withdraw or substitute any ground or grounds or to add any new ground or grounds of appeal on or before the hearing.*

2. At the outset, the Ld. counsel pointed that the Ld. CIT(A) has passed the order in *ex-parte* manner and no opportunity has been provided to the assessee. In view of the *ex-parte* order of the Ld. CIT(A), the adjournment sought by the Ld. counsel of the assessee was rejected and both the parties were heard on the grounds raised. We find that the Assessing Officer has made addition in terms of section 68 of the Act for unexplained loans amounting to ₹2,33,00,000/- on the basis of the information of accommodation entries received based on the search and survey action carried out at the premises of Shri Bhanwarlal Jain Group by the Investigation Wing, Mumbai.

3. Before, the Ld. CIT(A) non-presented on behalf of the assessee despite various notices issued to the assessee. The Ld. CIT(A) in the impugned order has merely referred different paras of the order of the Assessing Officer and dismissed the appeal of the assessee without detailed reasoning for arriving at the decision. We also find that Ld. CIT(A) has issued first notice 02.01.2018 and thereafter issued three notices on 28.08.2018, 21.09,2018 and 18.09.2019. Now, the assessee has filed appeal before the Tribunal seeking restoration of the appeal to Ld. CIT(A).

4. In the facts and circumstances of the case, we are of the opinion that assessee should be provided one more opportunity before the Ld. CIT(A) to advance its arguments/evidence in support of its claim. In the interest of substantial justice, we restore the issue in dispute back to the file of the Ld. CIT(A) for deciding the issue on merit and pass a reasoned order after providing adequate opportunity of being heard to the assessee. The 1<sup>st</sup> ground raised by the assessee is allowed.

4.1 The remaining grounds are not adjudicated as the appeal has already been restored back to the Ld. CIT(A).

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

**Order pronounced in the open Court on 03/02/2022.**

**Sd/-  
(PAVAN KUMAR GADALE)  
JUDICIAL MEMBER**

**Sd/-  
(OM PRAKASH KANT)  
ACCOUNTANT MEMBER**

Mumbai;  
Dated: 03/02/2022  
Rahul Sharma, Sr. P.S.

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,  
(Sr. Private Secretary)  
**ITAT, Mumbai**