

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC-1" MUMBAI**

**BEFORE SHRI KULDIP SINGH (JUDICIAL MEMBER) AND  
SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)**

**ITA No. 190/MUM/2022  
Assessment Year: 2011-12  
&  
ITA No. 191/MUM/2022  
Assessment Year: 2012-13**

Siraj Mansoorali Jamani,  
B/2802, Heaven Plaza, Near  
Sammelan Hotel, S.V. Road,  
Dahisar East,  
Mumbai-400063.

**PAN No. AFTPJ 0581 K  
Appellant**

ITO-WD-25(1)(2),  
R.No. 403, 4<sup>th</sup> floor, C-10,  
**Vs.** Pratyaksha Kar Bhavan,  
Bandra Kurla Complex,  
Bandra (E)  
Mumbai-400051.

**Respondent**

Assessee by : None  
Revenue by : Mr. Kiran P. Unavekar, DR  
Date of Hearing : 30/05/2022  
Date of pronouncement : 30/05/2022

**ORDER**

**PER OM PRAKASH KANT, AM**

These two appeals preferred by the assessee against two separate orders, each dated 06.12.2021, passed by the Ld. Commissioner of Income National Faceless Appeal Centre, Delhi [in

short 'the Ld. CIT(A)'] for assessment years 2011-12 and 2012-13 respectively. In both these appeals, identical issues-in-dispute are involved and therefore same were heard together and disposed off by way of this consolidated order for convenience and avoid repetition of facts. The grounds raised by the assessee in both the assessment years being identical except difference of the amount of addition, therefore, for brevity grounds raised in assessment year 2011-12 are being only reproduced as under :

*1. Many Notices were issued by the department on dates 23.12.2020, 31.03.2021 and 12.11.2021.*

*Our Reply: However, we could not give reply against any of the notices as the assessee was not getting any response from his bank to get the details required to submit proper reply. He also sent mail to the bank to provide him the credit card statement. (Refer Attachment of mail send to the bank.*

*2. The address of Usha Darshan Oshiwara, Mumbai -400058 was given while filling the Appeal in Form 35.*

*Our Reply: The address of the assessee was not changed on the Income Tax Portal, as the property is still owned by the assessee. He doesn't change the address on Income Tax Portal as he is staying on rent on his current address. The address was changed after this matter was*

*pointed out in Order u/s 250 of the Income Tax Act, 1961 dated 06-12-2021.*

*We therefore pray:*

*(a) that, your honour may be pleased to allow as an opportunity of present our case.*

*(b) that, your honour may be pleased to help as with getting the required data from the*

*Bank so that we can make the financials and submit it to Assessing Officer.*

*(c) that, your honour may be pleased to remand back the case to respective Assessing Officer.*

2. In assessment year 2011-12, un-explained expenditure u/s 69C of ₹3,00,696/- against credit card payment and unexplained cash credit u/s 68 of ₹16,78,100/- for cash deposit is in dispute. In assessment year 2012-13 unexplained expenditure u/s 69C of ₹58,982/- for credit card payment and unexplained cash credit u/s 68 of ₹10,18,000/- for cash deposit is in dispute. Briefly stated facts of the case are that no return of income was filed by the assessee in regular course for relevant assessment year(s) i.e. AY 2011-12 & AY 2012-13. In view of the information of credit card bills and cash

deposited in saving bank account, action u/s 147 of the Income-tax Act, 1961 (in short 'the Act') by way of issuing notice u/s 148 of the Act were initiated. Despite many notices issued by the Assessing Officer along with queries raised, at the address of the assessee, but no reply was furnished and therefore, he assessed income for both the assessment years in terms of section 144 of the Act as best judgment assessment and made addition for unexplained expenditure u/s 69C of ₹3,00,696/- and ₹58,982/- against credit card payments for assessment year 2011-12 and 2012-13 respectively. Similarly, the Assessing Officer also made addition for unexplained cash credit u/s 68 of the Act of ₹16,78,100/- and ₹10,18,000/- for cash deposits in bank account for assessment years 2011-12 and 2012-13 respectively.

3. Before the Ld. CIT(A) also none represented. The Ld. CIT(A) has sent notices on registered E-mail address of the assessee. The Ld. CIT(A) decided appeal ex-parte in absence of any submission from the assessee.

4. Before us, despite notifying none put appearance. An adjournment application was filed on the ground that the assessee is visiting Dubai. It is also noticed from the record that on the earlier date also none attended on behalf of the assessee. In the circumstances, we rejected the adjournment request and heard the appeal *ex-parte* qua the assessee after hearing arguments of Ld. Departmental Representative. Though we find that the grounds raised by the assessee are not properly drafted, however, we have understood the matter. We find that due to change of residence from the assessee's own house to rental house, the notice sent by the Ld. CIT(A) could not be received by the assessee and the assessee not being well versed with E-mail facility, therefore, assessee could not respond to the Ld. CIT(A). In our opinion this is justified reason for not file submission before the Ld. CIT(A). In view of the facts and circumstances, we feel it appropriate that the assessee should be given one more opportunity to file his submissions before the Ld. CIT(A) so that matter can be decided on

merit after hearing the submissions of the assessee or explanation regarding source of credit card expenses and cash deposit in bank accounts. In the interest of substantial justice, we set aside both the order of the Ld. CIT(A) and restore the matter back to the Ld. CIT(A) for deciding afresh after providing adequate opportunity of being heard to the assessee.

4.1 In the result, the grounds raised by the assessee are allowed for statistical purposes.

5. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

**Order pronounced in the open Court.**

Sd/-

**(KULDIP SINGH)  
JUDICIAL MEMBER**

Sd/-

**(OM PRAKASH KANT)  
ACCOUNTANT MEMBER**

Mumbai;  
Dated: 30/05/2022  
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**