

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

**BEFORE SHRI KULDIP SINGH, HON'BLE JUDICIAL MEMBER AND
SHRI S. RIFAUR RAHMAN, HON'BLE ACCOUNTANT MEMBER**

ITA NO. 2770/MUM/2022 (A.Y. 2017-18)

M/s. Saiman Synthetics Survey No. 128/2, House No. 2077 Om Sai Building, Raj Rajeshwari Compound Sonale, Bhiwandi - 421302 PAN: AAIFD0638H	v.	ACIT, Circle – 2(1) Room No. 804, 8 th Floor Pratishtha Bhavan Old CGO Annexe Maharishi Karve Road Mumbai - 400020
(Appellant)		(Respondent)

Assessee Represented by	:	Shri Rushabh D. sundesha
Department Represented by	:	Shri Sourabh Kumar Rai
Date of Hearing	:	10.01.2023
Date of Pronouncement	:	31.01.2023

ORDER

PER S. RIFAUR RAHMAN (AM)

1. This appeal is filed by the assessee against order of the Learned Commissioner of Income Tax (Appeals)-48, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 23.09.2022 for the A.Y.2017-18.

2. Assessee has raised following grounds in its appeal: -

"1. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in upholding the addition of Rs. 12,44,325/- made by the Ld AO on account of difference in valuation of stock as unexplained investment u/s 69 of the IT Act 1961 and the reason assigned for doing so are wrong and contrary to the Provisions of Income Tax Act and rules made there under.

2. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in upholding the addition of Rs.7,65,094/- made by the Ld AO on account of difference in cash found as unexplained expenditure u/s 69C of the IT Act 1961 and the reason assigned for doing so are wrong and contrary to the Provisions of Income Tax Act and rules made there under.

3. Your Appellant crave, leave to add, alter, amend or modify any or all grounds of appeal on or before the date of hearing."

3. Ld. Counsel for the assessee submits that Ld.CIT(A) passed exparte order without providing adequate opportunity of being heard to the assessee, therefore, considering additions/disallowance made by the Assessing Officer Ld. Counsel for the assessee requested that the matter may be restored to the file of the Ld.CIT(A).

4. Ld. DR has no serious objection in remitting the matter back to the file of the Ld.CIT(A).

5. Considered the rival submissions and material placed on record, on a perusal of the Ld.CIT(A) order, we find that the even though the

Ld.CIT(A) provided opportunity on several occasions assessee could not appear. We observe that Ld.CIT(A) has decided the issue without there being any submissions from the assessee on merits. We have considered the totality of facts and submissions of the Ld. AR and keeping in view the additions/disallowance made by the Assessing Officer, we are of the opinion that assessee should be given one more opportunity of being heard. Thus, this appeal is restored to the file of the Ld.CIT(A) for denovo adjudication in accordance with law. Assessee shall cooperate with the proceedings before the Ld.CIT(A) without taking unnecessary adjournments. It is needless to say that the assessee may be given proper opportunity of being heard.

6. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 31st January, 2023.

Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER
Mumbai / Dated 31.01.2023
Giridhar, Sr.PS

Sd/-
(S. RIFAUH RAHMAN)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

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

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum