

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

**BEFORE SHRI PAVAN KUMAR GADALE, HON'BLE JUDICIAL MEMBER AND
SHRI S. RIFAUR RAHMAN, HON'BLE ACCOUNTANT MEMBER**

ITA NO. 1048/MUM/2023 (A.Y. 2015-16)

RTG Exchange Limited 3, Chapel Road Near Jeff Caterers Off. Hill Road, Bandra (W) Mumbai - 400050 PAN: AABCG0985A	v.	The Add/Joint/Deputy/Asst. Commissioner of Income Tax/Income Tax Officer National Faceless Appeal Centre Through the Principal Chief Commissioner of Income-tax Room No. 401, 2 nd Floor Eramp, Jawaharlal Nehru Stadium New Delhi – 110003.
(Appellant)		(Respondent)

Assessee Represented by	:	Shri Dhaval Shah
Department Represented by	:	Ms. Kavita Kaushik
Date of Conclusion of Hearing	:	15.06.2023
Date of Pronouncement	:	21.06.2023

ORDER

PER S. RIFAUR RAHMAN (AM)

1. This appeal is filed by the assessee against order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre,

Delhi [hereinafter in short "Ld.CIT(A)"] dated 15.02.2023 for the A.Y.2015-16.

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

"The Appellant has taken following grounds of appeal:-

1) The appellant had filed an appeal before the Ld CIT (A) vide appeal no CIT (A) 21, Mumbai/10839/2017-18, but the same was dismissed by the Ld. CIT (A), as the Appellant had filed for an adjournment online on 09.02.2023 which was not granted by the Ld. CIT (A). (Copy of mail received from the Department that the request for adjournment has been submitted successfully is attached herewith)

2) The appellant further states that they were unable to view the earlier notices sent on the mail id on 29.01.2021 & 20.01.2023, as the client was not operating Forex business from Dec 20th 2018, and there were no staff from Jan 2019, as the FFMC Licence was not renewed by RBI, and since the office of Appellant was mostly closed as there was no Forex business, the mails of the company were not checked often and possibility that the notices dated 29.01.2021 & 05.01.2023 were not seen by the appellant due to oversight.

3) The appellant further states that on the basis of the facts and circumstances of the cases in the law, the Ld.AO erred in making addition of Rs 27,65,820/- by treating the unsecured Loans obtained by the Appellant as unexplained cash credit u/s 68 of the Income Tax Act 1961. It is submitted that the Ld. AO has made such arbitrary addition without considering the documents & explanations given by Appellant during the course of assessment proceedings. It is therefore prayed to Your Honour that the additions of Rs 27,65,820/- made by the Ld. AO shall be deleted since the same is unjustified, unwarranted & unnecessary, and necessary direction be given in this regard.

4) The appellant further states that on the basis of facts & circumstances of the cases in law, the Ld. AO erred in making addition of ₹.6,07,876/- considering repayment of loan made out of undisclosed"

3. At the outset, Ld. AR of submitted that the most of the relevant documents i.e, Purchased Bills, Sales Bills, and other documents were destroyed as the office was completely closed during the Covid-19 Pandemic and assessee has lodged a Complaint with the Bandra Police. Ld. AR of the assessee submitted that assessee has sought for adjournment through online on 09.02.2023 and the same was not granted by the Ld.CIT (A). 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 even though the Ld.CIT(A) provided opportunity on several occasions assessee could not appear. Considering 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. Needless to say that the Ld.CIT(A) shall give adequate opportunity of being heard to the assessee. Thus, this appeal is restored to the file of the Ld.CIT(A) accordingly.

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

Order pronounced in the open court on 21st June, 2023.

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER
Mumbai / Dated 21.06.2023
Giridhar, Sr.PS

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

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

//True Copy//

BY ORDER
(Asstt. Registrar)
ITAT, Mum