

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

**BEFORE SHRI OM PRAKASH KANT, AM &
SHRI N. K. CHOUDHRY, JM**

I.T.A. No. 1066/Mum/2023
Assessment Year: 2008-09

I.T.A. No. 1067/Mum/2023
Assessment Year: 2009-10

I.T.A. No. 1068/Mum/2023
Assessment Year: 2010-11

I.T.A. No. 1069/Mum/2023
Assessment Year: 2011-12

I.T.A. No. 1070/Mum/2023
Assessment Year: 2012-13

I.T.A. No. 1071/Mum/2023
Assessment Year: 2013-14

I.T.A. No. 1072/Mum/2023
Assessment Year: 2014-15

**E-Ally Consulting (India)
Pvt. Ltd.** A-1701/1702, Lotus
Corporate Park, Goregaon (E),
Mumbai-400063.
PAN No. **AABCE5603P**

Vs.

Dy.CIT, CC-1(1)
Pratishtha Bhawan,
M.K. Road, Mumbai-400020.

Appellant) : **Respondent)**

Appellant by : Sh. Jayant R. Bhatt
Respondent by : Sh. Biswanath Das, CIT-DR

Date of Hearing : 20.06.2023
Date of Pronouncement : 23.06.2023

ORDER

Per Bench:

The Assessee/Appellant herein has preferred these appeals against the common order dated 06.02.2023 for A.Ys. 2008-09 to 2014-15, impugned herein passed by Ld. Commissioner of Income Tax (Appeals)-47 Mumbai {in short 'Ld. Commissioner')} u/s 153A r.w.s. 143(3) of the Income Tax Act 1961 (in short 'the Act').

2. These cases are interconnected and having involved common facts and issues, therefore, for the sake of brevity the same were heard together and are disposed off by this common order.

3. For brevity we will decide ITA No. 1066/Mum/2023 as a lead case and the result of the same shall apply mutatis mutandis to all the appeals under consideration.

4. The assessee is stated to be engaged in the business of providing consultation and technical services relating to the non-fund based management, commercial and marketing service and to supply to turnkey projects in all industries, utilities, commercial and welfare fields and to co-operate on the business of BPO outsourcing call centers, e-commerce and derived his income from Business & Profession.

5. On dated 01.10.2013 search and seizure operations were carried out in the case of the Assessee's group as well as in the case of Pravin Kumar Jain.

6. Consequently, a notice under section 153A was issued to the assessee on 11.05.2015, in response to which the assessee filed its return of income on dated 03.06.2015 by declaring total income of Rs. "NIL". The AO observed that the assessee has taken unsecured loan amounting to Rs. 12,00,000/- from various entities controlled by Mr. Pravin Kumar Jain, for which the assessee was confronted.

The AO ultimately made the addition of Rs. 12,00,000/- under section 68 of the Act on account of loan taken from the entry provider company namely Ansh Merchandise Pvt. Ltd.

7. The assessee being aggrieved preferred first appeal before the Ld. Commissioner on dated 24.04.2016. As it appears from para-5 of the impugned order that various notices starting from 25.08.2015 till 12.01.2023, have been issued to the assessee, however, in response the assessee filed no explanation, representation or submission. Therefore, the Ld. Commissioner by construing that the

assessee is not interested to present his case, decided the appeal of the assessee ex-parte and affirmed the addition of Rs. 12,00,000/-, against which being aggrieved the assessee is in appeal before us.

8. At the outset, the assessee claimed that on dated 16.08.2017 the assessee though filed its submissions and Paper Book (PB) at the time of hearing before the Ld. Commissioner, however, in the order, the same does not find mentioned.

9. On the contrary, the Ld. Departmental Representative (DR) by refuting the claim of the assessee, claimed that the order under challenge does not suffer from any perversity, improperity and/or illegality.

10. We observe that though the appeal was filed by the assessee on 21.03.2016, however, as it appears from the impugned order, first notice was issued only on 25.05.2018 whereas the assessee has claimed to have filed detailed submissions and PB before the Ld. Commissioner during the personal hearing on 16.08.2017.

11. We have given thoughtful consideration the rival claims of the parties. If we see impugned order Prima facie, the contention raised by the Assessee does not seems to be genuine, however in our considered opinion, the submissions and documents (PB) filed by the assessee are not only beneficial to the assessee, but infact are essential for real and proper adjudication of the issues involved and therefore, for the just decision of the case and for the ends of justice, as the parties have agreed, we, are inclined to remand the instant case to the file of the Ld. Commissioner for the decision afresh, subject to deposit of Rs. 5000/- in National relief fund within 15 days of the receipt of this order.

The Assessee would be at liberty, to file its submissions and documents in addition to already filed if any, in support of its case. The Assessee shall appear in appellate proceedings and also file any other document(s) as would be required by the Ld. Commissioner for proper and just decision of the case. In case of further default, the assessee shall not be entitled for any kind of leniency.

Resultantly the instant appeal i.e. ITA No. **1066/Mum/2023** filed by the assessee is allowed.

12. In view of our decision in ITA No. 1066/Mum/2023 all appeals under consideration stands allowed on the same terms.

Orders pronounced in the open court on 23-06-2023.

Sd/-
(OM PRAKASH KANT)
Accountant Member

Sd/-
(N. K. CHOUDHRY)
Judicial Member

SK, Sr.PS.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai