

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

**BEFORE SHRI VIKAS AWASTHY, HON'BLE JUDICIAL MEMBER AND  
SHRI S. RIFAUH RAHMAN, HON'BLE ACCOUNTANT MEMBER**

**ITA NO. 2020/MUM/2023 (A.Y. 2008-09)**

M/s. Pyxis Exim Private Limited D-502, Xanadu Building Prathamesh Complex Veera Desai Road, Andheri (W) Mumbai - 400058  <b>PAN: AADCP2761P</b>	v.	Income Tax Officer – 15(2)(1) Aaykar Bhavan, M.K. Road Mumbai - 400020
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Assessee Represented by</b>	<b>:</b>	<b>Shri Poojan Mehta</b>
<b>Department Represented by</b>	<b>:</b>	<b>Shri Suhas Dabade</b>
<b>Date of Conclusion of Hearing</b>	<b>:</b>	<b>18.09.2023</b>
<b>Date of Pronouncement</b>	<b>:</b>	<b>18.09.2023</b>

**ORDER**

**PER S. RIFAUH RAHMAN (AM)**

1. This appeal is filed by the assessee against the order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter in short "Ld.CIT(A)"] dated 30.03.2023 for the A.Y.2008-09.

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

"1. *The Officer at National Faceless Appeal Centre (hereinafter referred to as the CIT(A)) erred in framing an ex parte order.*

2. *The CIT(A) erred in sustain the addition made by the Income-tax Officer - 15(2)(4), Mumbai (hereinafter referred to as the Assessing Officer) of Rs 41,23,203, being income estimated at the rate of 0.5 per cent of the alleged aggregate accommodation entries of Rs 82,46,40,707.*

*The appellants contend that on the facts and in the circumstances of the case and in law, the CIT(A) ought not have sustained the impugned addition inasmuch as the CIT(A) has not appreciated the facts of the case in its entirety.*

*The appellants further, contend that the CIT(A) ought not have sustained the impugned addition inasmuch as the alleged accommodation entries were carried out, and managed by Mr Nikunj Kanakia, through the appellants; however, the appellants have not received any income for facilitating the alleged accommodation entries."*

**3.** At the outset, Ld. Counsel for the assessee submitted 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 nor complied to the notices. 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 in the interest of principles of natural justice. 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 filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 18<sup>th</sup> September, 2023.

Sd/-  
**(VIKAS AWASTHY)**  
**JUDICIAL MEMBER**  
Mumbai / Dated 18.09.2023  
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**