

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

**BEFORE SHRI N. K. CHOUDHRY, JM &
BEFORE SHRI GAGAN GOYAL, AM**

I.T.A. No. 2071/Mum/2023
Assessment Year: 2017-18)

Ajit Bhagwan Kulkarni
C/o 574 Usha Kamar,
Chembur Nakachembur,
Mumbai-400043.
PAN No. **AAKPK3962D**

DCIT, CC-3(1),
Air India Building,
Vs. Mumbai-400021.

Appellant)	:	Respondent)
Appellant/Assessee by	:	Sh. Avinash Punjabi, Ld. CA
Revenue/Respondent by	:	Sh. Ajay Chandra, Ld. CIT-DR
Date of Hearing	:	26.09.2023
Date of Pronouncement	:	27.09.2023

O R D E R

Per N. K. Choudhry, JM:

The Assessee/Appellant herein has preferred this appeal against the order dated 05.04.2023 impugned herein passed by Ld. Commissioner of Income Tax (Appeals)-51, Mumbai {in short 'Ld. Commissioner'} u/s 250 of the Income Tax Act 1961 (in short 'the Act').

2. In the instant case, during the search and seizure operation some cash and jewellery and other documents of the Assessee were found and seized. Accordingly, proceedings under section 153C of the Act were initiated for the A.Y. 2011-12 to 2016-17 after recording the satisfaction. Thereafter the Assessee was also asked to furnish its return of income within 15 days of the receipt of the notice dated 29.08.2018. In response the Assessee filed its return of income on 02.08.2011. Thereafter various statutory notices were issued, in response to which the Assessee from time to time appeared and filed part details before the AO, on the basis of which, the AO determined and computed the income of the Assessee and made the additions of Rs. 26,78,716/- on account of investment in jewellery under section 69A of the Act and the amount of Rs. 3,00,00,000/- on account of salary earned from M/s Pratibha Industries Ltd.

3. The Assessee being aggrieved challenged the said additions. It appears from the impugned order that various notices for hearings were issued to the Assessee, however, the Assessee except seeking adjournments on some of the occasions neither filed any details nor appeared, hence, considering the conduct of the Assessee, in our considered view, the Assessee is not entitled for any kind of leniency. However, we observe that the Ld. Commissioner in the absence of reply/documents and appearance of the Assessee failed to pass the order on merit, hence, for proper adjudication of the case and for the ends of justice, it would be appropriate to remand the instant case to the file of the Ld. Commissioner for decision

afresh, suffice to say by affording reasonable opportunity of being heard to the Assessee. Ordered accordingly.

4. We also direct the Assessee to appear and file relevant documents which would be needed by the Ld. Commissioner for proper adjudication of the case and in case of further default, the Assessee shall not be entitled for any leniency.

5. In the result, appeal filed by the Assessee stands allowed for statistical purposes.

Orders pronounced in the open court on 27-09-2023.

Sd/-
(GAGAN GOYAL)
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
5. CIT

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai

Sr. No.	Details	Date	Initial	Designation
1	Draft dictated on (dictation sheets are attached with main file	26.09.23		Sr.PS/PS
2	Draft dictated on PC			Sr.PS/PS
3	Draft Placed before author	27.09.23		Sr.PS/PS
4	Draft proposed & placed before the Second Member			JM/AM
5	Draft discussed/approved by Second Member			JM/AM
6	Approved Draft comes to the Sr.PS/PS			Sr.PS/PS
7	Order pronouncement on			Sr.PS/PS
8	File sent to the Bench Clerk			Sr.PS/PS
9	Date on which the file goes to the Head clerk			
10	Date on which file goes to the AR			
11	Date of Dispatch of order			