

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, MUMBAI**

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA No.2368/Mum/2023
(A.Y. 2019-20)**

Padma Disha Paradise Building No. 8A/001, Ashok Nagar, Kalyan Road, Bhivandi, Thane, Maharashtra - 421302	Vs.	DCIT, Central Circle-1 Ashar IT Park, 6 th Floor, No. 16Z, Thane (W)
स्थायी लेखा सं./जीआइआर सं./ PAN/GIR No: AANFP1681R		
Appellant	..	Respondent

Appellant by :	None
Respondent by :	H. M. Bhatt

Date of Hearing	18.10.2023
Date of Pronouncement	26.10.2023

आदेश / ORDER

Per Amarjit Singh (AM):

This appeal filed by the assessee is directed against the order passed by the ld. CIT(A)-11, Pune dated 11.05.2023 for A.Y. 2019-20.

The assessee has raised the following grounds before us:

- “1. On the facts and in the circumstances of the appellant's case and in law, the Learned Commissioner of Income Tax (Appeal) erred in passing the ex-parte order.
2. On the facts and in the circumstances of the appellant's case and in law, the Ld. Commissioner of Income Tax (Appeals) erred in not affording one more opportunity of being heard despite the fact that an adjournment was requested on the appointed day i.e on 15.03.2023.

3. *On the facts and in the circumstances of the case and in law, the Learned Commissioner of Income Tax (Appeal) erred in dismissing the appeal in limine.*
4. *On the facts and in the circumstances of the case and in law, the Learned Commissioner of Income Tax (Appeal) erred in confirming the AO's action of making the addition of Rs.11,19,901/- u/s 68 of the Income Tax Act, 1961.*
5. *The appellant craves leave to add to, alter, amend, modify and /or delete all or any of the foregoing grounds of appeal.*

The appellant prays before the Hon'ble Tribunal to delete the addition made by the AO and confirm by the Ld. CIT(A) and/ or any other relief as the Hon'ble Tribunal may deem fit.”

2. Fact in brief is that return of income declaring total income of Rs.203,50,330/- was filed on 30.10.2019. The assessee is engaged in the business of Construction. A survey action u/s 133A of the Act was conducted in the case of the assessee on 08.03.2019. The case of the assessee was subject to scrutiny assessment and notice u/s 143(2) of the Act issued on 30.09.2020. During the course of assessment the AO noticed that assessee has received unsecured loan during the year from the following parties:

Sr. No.	Name	Amount received during the F.Y. 2018-19 (in Rs.)
1.	AmolVishvanath Bade	30,447/-
2.	AparnaSagarKendre	1,72,500/-
3.	Aruna Shankar Kendre	2,74,777/-
4.	LaxmiVeeramalluSamal	1,00,000/-
5.	Ruchika P. Bura	1,50,000/-
6.	Shankar NamajiKendre	3,92,177/-
	Total	11,19,901/-

During the course of assessment the AO has asked the assessee to furnish the loan confirmation, bank statement and copy of return filed by the above lender parties. However, the assessee has not made any compliance to the show cause notice dated 11.09.2021 issued by the assessing officer. Consequently, the assessing officer has treated the

whole unsecured loan amounting to Rs.11,19,901/- as unexplained u/s 68 of the Act and added to the total income of the assessee.

3. The assessee filed the appeal before the ld. CIT(A). The ld. CIT(A) has dismissed the appeal of the assessee holding that assessee has not made compliance to the notices issued during the course of appellate proceedings before us.

4. Heard the ld. D.R and perused the material on record. During the course of assessment the assessee has not made any compliance during the course of assessment proceedings. Therefore, AO has treated the unsecured loan obtained by the assessee from the 6 parties as discussed supra as unexplained u/s 68 of the Act. Even during the course of appellate proceeding before the ld. CIT(A) the assessee has frequently sought adjournment on the ground that the paper book required to be submitted was under compilation. In the ground no.2 of the appeal filed before us, the assessee pleaded that they have requested the Ld. CIT(A) on the date of hearing fixed on 15.03.2023 for offering one more opportunity of hearing. In the statement of facts filed by the assessee before the ld. CIT(A), the assessee submitted that they failed to make compliance because the lenders have taken more time in providing the required documents for the purposes of making compliance in the appellate proceedings. After considering the above facts and circumstances we observe that for deciding the issue on merit it is appropriate to provide one more opportunity to the assessee at the level of first appellate authority. Therefore, we restore the case to the file of the ld. CIT(A) for deciding afresh on merit as contemplated u/s 250(6) of the Act after affording one more opportunity to the assessee. The assessee is also directed to make compliance before the ld. CIT(A) without any failure. Therefore, the appeal of the assessee is allowed for statistical purposes.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 26.10.2023

Sd/-
(VikasAwasthy)
Judicial Member

Sd/-
(Amarjit Singh)
Accountant Member

Place: Mumbai

Date 26.10.2023

Rohit: PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

No.	Details	Date	Initials	Designation
1	Draft dictated on			Sr.PS/PS
2	Draft Placed before author			Sr.PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			JM/AM
5	Approved Draft comes to the Sr.PS/PS			Sr.PS/PS
6	Kept for pronouncement on			Sr.PS/PS
7	File sent to the Bench Clerk			Sr.PS/PS
8	Date on which the file goes to the Head clerk			
9	Date on which file goes to the AR			
10	Date of Dispatch of order			