

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

**BEFORE SHRI B R BASKARAN, AM &  
SHRI N. K. CHOUDHRY, JM**

I.T.A. No. 2426/Mum/2023  
Assessment Year: 2015-16)

**Shivshakti Technology Pvt.  
Ltd.** 16, Gandhi Bhavan,  
Gr. Floor, Chunam Lane,  
Lamington Road,  
Mumbai-400007.

Vs.

**Dy. Commissioner of  
Income Tax, Circle-  
5(3)(1),**  
Aayakar Bhavan, M.K. Road,  
Mumbai-400020

PAN No. **AAFCS2773J**

**Appellant) : Respondent)**

**Assessee / Appellant by** : None  
**Department / Respondent/** : Shri Paresh Deshpande, Sr.  
**by** DR

**Date of Hearing** : 26.10.2023  
**Date of Pronouncement** : 30.10.2023

O R D E R

**Per N. K. Choudhry, JM:**

The Assessee/Appellant herein has preferred this appeal against the order dated 14.06.2023 impugned herein passed by National Faceless Appeal Centre (NFAC), Delhi/ Ld. Commissioner of Income Tax (Appeals)-10, Mumbai {in short 'Ld. Commissioner'} under section 143(3) of the Income Tax Act 1961 (in short 'the Act').

**2.** In the instant case, the assessment order dated 13.11.2017 was passed by the Assessing Officer (AO) under section 143(3) of the Act whereby disallowance of Rs. 1,14,65,185/- on account of unsecured loans has been made.

**3.** The Assessee being aggrieved challenged the said disallowance by filing first appeal before the Ld. Commissioner on 04.04.2018, which was taken into consideration by issuing various notices, however, the Assessee neither appeared before the Ld. Commissioner nor filed any written submission or adjournment letter, therefore, in the constrained circumstances, the Ld. Commissioner decided the appeal as ex-parte and dismissed the same against which the Assessee has preferred the instant appeal which is fixed for today for hearing. Though the Assessee by filling an un-signed application dated 25/10/2023 sought adjournment, however, we realize that impugned order is an ex-parte and not on merit and therefore, in the interest of justice and for the just decision of the case, 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, thus ordered accordingly. The Assessee is also directed to appear, if necessitates and file the relevant document 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.

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

Order pronounced in the open court on 30-10-2023.

Sd/-

**(B R BASKARAN)**  
**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**