

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

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER &  
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA No.2361/Mum/2023  
(A.Y. 2009-10)**

Vijay Girjashankar Trivedi D-304, Draupaid Vihar, Devi Chowk Shastri Nagar Dombivali West Maharashtra - 421202	Vs.	ITO Ward 3(4) 2 <sup>nd</sup> Floor, Rani Mansion, Murbad Road, Kalyan O Maharashtra 421301
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No:AABPT3167E		
Appellant	..	Respondent

Appellant by :	None
Respondent by :	Ajay Singh

Date of Hearing	09.10.2023
Date of Pronouncement	20.10.2023

आदेश / ORDER

**Per Amarjit Singh (AM):**

This appeal filed by the assessee is directed against the order passed by the NFAC dated 30.05.2023 for A.Y. 2009-10. The assessee has raised the following grounds before us:

- “1. The Ld. CIT(A) has erred in law and in facts in passing the order and dismissing the appeal without granting sufficient opportunity of hearing to the appellant.
2. The Ld. CIT(A) has erred in law and in facts in confirming the addition made by Ld. A.O. of Rs.23,82,756/- being 100% of alleged to be bogus.
3. The Ld. CIT(A) has erred in law and in facts in confirming the addition upto 20% made by Ld. A.O. of Rs.41 500/- as indirect expenses claimed by appellant.

4. *The appellant craves leave to add to, amend, alter or delete all or any of the foregoing grounds of appeal.”*

2. Fact in brief is that the return of income declaring total income of Rs.123,720/- was filed on 29.09.2009. The case of the assessee was reopened u/s 147 of the Act by issuing of notice u/s 148 on 30.03.2016 on the basis of information received from Sale Tax Department that assessee has obtained accommodation entries of purchases made from the following parties:

<i>Hawala Tin</i>	<i>Hawala Name</i>	<i>F. Y.</i>	<i>Amount (Rs.)</i>
27020229342V	Universal Enterprise	2008-09	8,05,804/-
27110574467V	Apex Steel	2008-09	3,90,936/-
27230613104V	Arihant Traders	2008-09	4,00,624/-
27940631968v	Varah Laxmi Sales Agency	2008-09	7,85,392/-
	Total		23,82,756/-

3. During the course of assessment the assessing officer stated that assessee has failed to prove the genuineness of the purchases made from the aforesaid parties, therefore, 100% of such purchases was disallowed and added to the total income of the assessee.

4. The assessee filed the appeal before the ld. CIT(A). The ld. CIT(A) stated that in spite of issuing a number of notices the assessee had not made any compliance, therefore, in the ex-parte order passed u/s 250 of the Act, the ld. CIT(A) has partly allowed, by restricting the disallowance to the extent of 20% of such bogus transactions.

5. Heard the ld. D.R. and perused the material on record. The assessee pleaded as per ground no. 1 of appeal filed that sufficient opportunity of hearing was not granted by the ld. CIT(A). We find that in the order u/s 250 of the Act passed by the ld. CIT(A), the detail of issuing any service of notices of hearing to assessee were not provided. Therefore, in the interest of justice to decide the issue in appeal on

merits we consider it appropriate to restore this case to the file of the Id. CIT(A) for deciding denovo after providing opportunity of hearing to the assessee. The assessee is directed to make the compliance before the Id. CIT(A) without any failure. Therefore, appeal of the assessee is allowed for statistical purposes.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 20.10.2023

Sd/-  
(Kuldip Singh)  
Judicial Member

Sd/-  
(Amarjit Singh)  
Accountant Member

Place: Mumbai

Date 20.10.2023

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.**