

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

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER &  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.3239/Mum/2023  
(A.Y. 2007-08)**

Angel Jewellery 4, Akurli Industrial Estate, Akurli Road, Kandivali East, Mumbai-400101	Vs.	ITO-42(1)(1) Kautilya Bhavan, BKC, Bandra East, 400051
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAIFA7184P		
Appellant	..	Respondent

Appellant by :	K.A.Vaidyalingan
Respondent by :	Lieder Panicker

Date of Hearing	27.12.2023
Date of Pronouncement	01.01.2024

**आदेश / ORDER**

**Per Amarjit Singh (AM):**

This appeal filed by the assessee is directed against the order passed by the Id. CIT(A) NFAC, dated 16.08.2023 for A.Y. 2007-08. The assessee has raised the following grounds before us:

- “1. The learned CIT (A) erred in dismissing the appeal of the Appellant in unnecessary hurry and without giving a reasonable opportunity of being heard.*
- 2. The learned CIT (A) failed to appreciate the fact that out of three dates given earlier, on two occasions it was impossible to respond due to COVID-19 and consequent lockdown and on the last occasion, the CA who was handling this old matter was indisposed.*
- 3. In law and on the facts and circumstances of the case, the entire reassessment is bad in law and nullity as the learned AO erred in completing the reassessment u/s. 144 r.w.s. 147 of the Income tax Act without issuing a valid notices u/s. 148 and 143 (2) of the Act.*
- 4. The learned CIT (A) erred in upholding the addition of Rs.24.12,640/- made by the learned AO u/s. 69C on account of alleged unsecured loan*

*taken from M/s. Mohit Enterprise and M/s. Mayur Exports, though no such loans were taken by the Appellant from those parties. The Appellant had made genuine accounted purchases and not taken any from those parties.*

5. *The learned CIT(A) erred in not allowing set off of brought forward loss of Rs. 1,01,392/-."*

2. Fact in brief is that return of income declaring total income at Rs.91,410/- was filed on 16.10.2017. The case was reopened by issuing of notice u/s 148 of the Act on 15.04.2014. During the course of assessment proceedings neither the assessee has attended nor furnished any detail in respect of unsecured loan taken from (i) Mohit Enterprise; Rs.7,06,110/-; (ii) Mayor Exports; Rs. 24,12,640/-. Therefore, AO has added unsecured loan amounting to Rs.24,12,640/- to the total income of the assessee by treating the same as unexplained loan u/s 69C of the Act.

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

4. During the course of appellate proceedings before us the ld. Counsel submitted that CIT(A) has issued 3 notices during the covid period to which assessee could not made compliance because of prevailing covid pandemic. In respect of notice issued on 14.08.2023 the assessee sought adjournment. However, the ld. CIT(A) has not provided the adjournment and dismissed the appeal of the assessee on 16.08.2023.

On the other hand, the ld. D.R supported the order of lower authorities.

5. Heard both the sides and perused the material on record. Without reiterating the fact as elaborated above the last notice after the covid period was issued by the ld. CIT(A) on 14.08.2023 during the course of

appellate proceedings. The assessee has sought adjournment however, without disposing off the adjournment application within two days of issuing notice the Id. CIT(A) has passed ex-parte order u/s 250 of the Act on 16.08.2023. Looking to the above facts and circumstances the Id. CIT(A) ought to have dealt with the adjournment application filed by the assessee. Therefore the matter is remanded back to the Id. First Appellate Authority for adjudication on merit after providing another fair and reasonable opportunity to the assessee. The assessee is directed to making compliance before the Id. CIT(A) without any failure. Therefore, appeal of the assessee is allowed for statistical purpose.

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

Order pronounced in the open court on 01.01.2024

Sd/-  
(Rahul Chaudhary)  
Judicial Member

Sd/-  
(Amarjit Singh)  
Accountant Member

Place: Mumbai

Date 01.01.2024

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.