

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SMT. RENU JAUHARI, ACCOUNTANT MEMBER**

**ITA No.4736/M/2023
Assessment Year: 2011-12**

Ms. Kirthi Shetty, Flat No.106, Maruti Vihar, Sector 28,Plot No.65, Vashi, Navi Mumbai-400073 PAN: BCNPS3380M	Vs.	Income Tax Officer, Ward 27(2)(1), Above Vashi Railway Station, 3 rd & 4 th Floor, 6 th Tower Compelx, Vashi, Navi Mumbai- 400 703
(Appellant)		(Respondent)

Present for:

Assessee by : None

Revenue by : Shri C.T. Mathews, Sr. DR

Date of Hearing : 22 . 05 . 2024

Date of Pronouncement : 29 . 05 . 2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the assessee against the order dated 25.10.2023, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2011-12.

2. In the instant case, the Assessing Officer (AO) vide assessment order dated 10.12.2018 under section 144 read with section 147 of the Act made the addition of Rs.41,18,000/- under section 69 of the Act on account of term deposits in bank account by treating the same as unexplained investment.

3. The assessee, being aggrieved, challenged the said addition before the Ld. Commissioner, who though afforded 4 opportunities to the assessee by issuing notices and fixing the case for hearing, however, the assessee made no compliance with the notices issued and therefore in the absence of any reply/document which the assessee failed to file, the Ld. Commissioner affirmed the assessment order passed by the AO under section 144 read with section 147 of the Act resulting into making of addition of Rs.42,78,000/- as proper and quite in order.

4. The assessee, being aggrieved, is in appeal before us.

5. By considering the conduct of the assessee, though, we are inclined not to entertain the appeal of the assessee, however, considering the peculiar facts and circumstances, as the Ld. Commissioner in the absence of relevant reply/documents failed to decide the appeal of the assessee in its right perspective and in proper manner, hence, for the just decision of the case and ends of substantial justice, we are inclined to remand the instant case to the file of the Ld. Commissioner for decision afresh on merits, suffice to say by affording reasonable opportunity to the assessee to substantiate its claim before the Ld. Commissioner.

- 6.** We also direct the assessee to cooperate with the appellate proceedings and to file the relevant submissions/documents which would be essential and required by the Ld. Commissioner for proper adjudication of the case. We clarify that in case of further default the assessee shall not be entitled for any leniency.
- 7.** Thus, the case is remanded accordingly.
- 8.** In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 29.05.2024.

**Sd/-
(RENU JAUHARI)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.