

**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.4617/M/2023
Assessment Year: 2017-18**

Shri Prashant Maruti Raut, B-44, Babaji Daruwala Chawl, Behind BMC School, Nagardas Cross Road, Andheri East S.O., Mumbai – 400 006 PAN: AGUPR6332C	Vs.	Office of the Income Tax Officer, Room No.701, 7 th Floor, Piramal Chamber, Lal Baug, Parel, Maharashtra-400 051
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Shri Himanshu Kumar, D.R.

Date of Hearing : 16 . 05 . 2024
Date of Pronouncement : 30 . 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 20.10.2023, 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. 2017-18.

2. In the instant case, the Assessing Officer (AO) vide assessment order dated 30.11.2019 under section 144 of the Act, made the addition of Rs.35,68,999/- as unexplained cash credit under section 69A of the Act and taxed the same @ 60% under section 115BBE.

3. The Assessee, being aggrieved, though challenged the said addition before the Ld. Commissioner, however, in spite of granting opportunities by sending notices to the Assessee on seven occasions, the Assessee except seeking adjournments on two occasions preferred not to file any reply/documents, therefore in absence of same, the Ld. Commissioner dismissed the appeal of the assessee by confirming the addition challenged by the assessee.

3. The Assessee, being aggrieved, is in appeal before us.

4. Though the notice for the date of hearing for today's hearing was issued to the assessee through RPAD as well as email, however, the assessee neither appeared nor filed any adjournment application, hence considering the peculiar facts and circumstances of the case, we are inclined to decide this appeal by perusing the orders passed by the authorities below and hearing the Ld. D.R.

5. Having heard the Ld. DR and perusing the orders passed by the authorities below and considering the peculiar facts and circumstances, we observe that the Assessee remained non-vigilant, in-active and not acted responsibly, as in spite of granting various opportunities, failed to comply with the notices and also failed to file the relevant reply/documents and therefore the Assessee do not deserve any leniency, however, considering the other aspects of the case, as in the absence of relevant reply/documents, the Ld. Commissioner was unable to decide the issue raised by the assessee in its right perspective and proper manner, hence for the just

decision of the case and for the ends of substantial justice, we are inclined to set aside the impugned order and consequently remanding the instant case to the file of the Ld. Commissioner for decision afresh on merits, however, subject to deposit of Rs.2,000/- in the Prime Minister's Relief Fund (PMRF) within 15 days of the receipt of the order.

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 30.05.2024.

**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.