

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

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

**ITA No.427/Mum/2024
Assessment Year: 2017-18**

Mr. Yagnesh Girjashankar Mehta, 1404, Chandavarkar Lane, Mayur Tower, Borivali West, Mumbai - 400 092 PAN: AFFPM5932B	Vs.	The Income Tax Officer, Ward 32(1)(7), Kautilya Bhavan, C-41 to C-43, G Block, Bandra Kurla Complex, Bandra East, Mumbai - 400 051
(Appellant)		(Respondent)

Present for:

Assessee by : Ms. Ranjana Soni, A.R.

Revenue by : Shri Nagnath Pasale, D.R.

Date of Hearing : 29 . 05 . 2024

Date of Pronouncement : 26 . 06 . 2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the assessee against the order dated 30.11.2023, 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 30.12.2019 under section 144 of the Act has made the

additions of Rs.9,99,312/- and Rs.9,46,099/- as unexplained money under section 69A of the Act. The assessee, being aggrieved, challenged the said additions by filing the first appeal before the Ld. Commissioner on 29.01.2020 which was taken into consideration after one year i.e. on 19.02.2021 and thereafter more than one year on 18.05.2022 and again after more than one year on 23.08.2023 by issuing notices which remained non-complied with. Therefore, in the constrained circumstances, the Ld. Commissioner dismissed the appeal of the assessee and affirmed the aforesaid additions by holding that the entire proceedings are based on the facts and the assessment is completed on best judgment basis and the assessee failed both during the assessment proceedings and appellate proceedings to make out a case as to how the ground agitated should be decided in its favour.

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

4. We have given thoughtful considerations to the peculiar facts and circumstances of the case. If we consider the conduct of the assessee then it goes to show that the assessee remained irresponsible and acted in defiance to the notices issued by the Ld. Commissioner, however, if we consider the other aspect of the case, as the appeal was filed by the assessee before the Ld. Commissioner on 29.01.2020 which was taken into consideration initially during Covid-19/Corona period and thereafter after a gap of more than one year or so. Even otherwise the Ld. Commissioner in the absence of the relevant reply/documents was unable to decide the issues as involved in its right perspective and proper manner and therefore for the ends of substantial justice and just decision of the case, the case is remanded to the file of the Ld. Commissioner for decision afresh on merits, suffice to say by affording reasonable opportunity to the assessee to substantiate his claim before the Ld. Commissioner.

5. The assessee is also directed 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.

6. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 26.06.2024.

**Sd/-
(RENU JAUHRI)
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.