

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

**SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 898/MUM/2024
(Assessment Year: 2012-13)**

Jimit Rajesh Shah

10A, Ajinkya Apartments, 80 Tagore Road,
Santacruz (West) Mumbai - 400054
[PAN: AYQPS9937C]

..... **Appellant**

ITO – 22(1)(1)

Room No. 308, Piramal Chambers,
Lalbaug, Mumbai - 400012

Vs

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Hitesh Shah
For the Respondent/Department : Shri Himanshu Sharma

Date

Conclusion of hearing : 02.07.2024
Pronouncement of order : 15.07.2024

ORDER

Per Rahul Chaudhary, Judicial Member:

1. By way of the present appeal the Assessee has challenged the order, dated 29/12/2023, passed by the Ld. Commissioner of Income Tax, Appeals ADDL/JCIT (A)-4 Chennai, for the Assessment Year 2012-13, whereby the Ld. CIT(A) had Dismissed the appeal of the Assessee against the Assessment Order, dated 21/12/2018, passed under Section 143(3) r.w.s. 147 the Income Tax Act, 1961 (hereinafter referred to as 'the Act').
2. The Assessee has raised following grounds of appeal in ITA No. 898/Mum/2024:
 1. *The Honourable CIT(A) erred in dismissing the appeal without*

providing any opportunity to the appellant.

2. *The Ld. AO erred in reopening the Assessment U/s.148.*
 3. *The Honourable CIT(A) is not justified in upholding the order of the Ld. AO passed U/S.143(3) R.W.S.147.*
 4. *The Honourable CIT(A) erred in relying on the order of the Bombay High Court in the case of Garware Nylons Limited, 1995 212 ITR 242.*
 5. *The appellant craves leave to add, alter or amend the above grounds of appeal as the circumstances may require or occasion may demand.*
 6. *The order of the Honourable CIT(A) and the assessing officer are bad in Law and hence the same are required to be set a side in the interest of justice and equity.*
3. We have heard both the sides and perused the material on record.
4. The solitary grievance of the Appellant is that the CIT(A) has declined to adjudicate the grounds raised by the Appellant challenging the validity of reassessment proceedings and dismissed the appeal on the ground that the Appellant cannot be said to be aggrieved by the order, dated 21/12/2018, passed by the Assessing Officer under Section 147 read with 143(3) of the Act as no additions were made to income as assessed during regular scrutiny proceedings controlled under Section 143(3) of the Act. Learned Authorised Representative for the Appellant submitted that the aforesaid grievance shall stand redressed in case the order impugned is set aside with the directions to the CIT(A) to adjudicate the grounds raised by the Appellant challenging the validity of the reassessment proceedings. The Learned Departmental Representative had no objections to the aforesaid preposition. Accordingly, the order dated 21/12/2018, passed by the CIT(A) is set aside and the appeal filed before the CIT(A) is restored with the

directions to the CIT(A) to adjudicate the grounds raised by the Appellant challenging the validity of reassessment proceedings. Ground No. 1 raised by the Appellant is allowed while all the other grounds raised by the Appellant are dismissed.

5. In result, the appeal preferred by the Assessee is allowed for statistical purposes.

Order pronounced on 15.07.2024.

Sd/-
(NARENDRA KUMAR BILLAIYA)
Accountant Member

Sd/-
(RAHUL CHAUDHARY)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 15.07.2024

Poonam Mirashi
Stenographer

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai