

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

**MS. PADMAVATHY S, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 2294/MUM/2024  
(Assessment Year: 2011-12)**

**Mustafa Gulam Jariwala,**  
16/8, Opp. Sardekar Hotel, Reti Bandar  
Darukhana, Mumbai - 400012  
[PAN: ACJJP6996K]

..... **Appellant**

Vs

**Ward 20(2)(1)**  
Mumbai - 400007

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Shri Dalpat Shah  
For the Respondent/Department : Smt Mahita Nair

**Date**

Conclusion of hearing : 16.07.2024  
Pronouncement of order : 19.07.2024

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. By way of the present appeal the Assessee has challenged the order, dated 16/02/2024, passed by the Learned Commissioner of Income Tax, Appeals – ADDL/JCIT(A)-2 Jaipur, [hereinafter referred to as the '**CIT(A)**'] for the Assessment Year 2011-12, whereby the Ld. CIT(A) had dismissed the appeal of the Assessee against the Assessment Order, dated 19/01/2019, passed by the Income Tax Officer, Ward 20(2)(1), Mumbai under Section 143(3) read with Section 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the **Act**').
2. The Assessee has raised following grounds of appeal in ITA No. 2294/Mum/2024:

"1. *Ex-Parte order by CIT(Appeal) - The honourable CIT(A) erred in conforming the addition made of Rs.4,63,457/-*

*U/sec 69C of the Income tax Act, 1961, ignoring the fact that there was a genuine and bonafide reason of neither taking any adjournment nor e-filing of submissions.*

2. *Addition of Purchase Cost Rs. Rs.4,63,460/- U/sec 69C - The honourable CIT(A) erred in confirming the addition of Rs.4,63,457/- U/sec 69C being purchase cost of goods sold as bogus purchases ignoring the documents submitted to establish the genuineness of the said purchases and corresponding sales were also offered as income"*

3. We have heard both the sides and perused the material on record. It was submitted on behalf of the Appellant that the Appellant was proceeded ex-parte by the CIT(A) and therefore, in the interest of justice the order passed by the CIT(A) be set aside and appeal be restored back to the file of CIT(A). In response to specific query regarding reasons for failure the CIT(A) submitted as under the Appellant was passing through a difficult as his wife (i.e, Mrs. Rashida Jariwala) was admitted to Hospital, in 2020 for medical treatment of high diabetes, arthritis, depression and was suffering from problems of her nervous system and therefore, the Appellant was occupied in attending to her medical treatment. The Learned Authorised Representative also placed reliance upon the medial reports and sworn affidavit of the Appellant placed before us as part of the paper-book. The Appellant had also applied under Vivadse Vishwas Scheme, 2021, however, the same was not accepted due to delay in payment of disputed taxes. It was submitted that in the aforesaid facts and circumstance and due to the bonafide reasons the Appellant could not make submissions and file documents before the CIT(A). We find merit in the aforesaid submission advanced on behalf of the Appellant. Since the Appellant has providing explanation for failure to pursue appeal before CIT(A), which we find to be reasonable and bonafide, we are inclined to accept the contention of the appellant to restore the present appeal back to the file of CIT(A). Further, on perusal of the order impugned we find that the CIT(A) has dismissed the appeal without examining the merits of the matter.

The CIT(A) has merely reproduced portion of the assessment order and not given any independent findings. There is no discussion on the averments made in the Statement of Facts filed before the CIT(A) as well as the Grounds of Appeal. Therefore, in view of the aforesaid, the order, dated 16/02/2024, passed by the CIT(A) is set aside and the appeal is restored back to the file of CIT(A) for denovo adjudication as per law after granting Appellant a reasonable opportunity of being heard.

4. In terms of above, Ground No. 1 is allowed while Ground No. 2 raised in the appeal is dismissed as being infructuous.
5. In result, in terms of paragraph 4 above, appeal preferred by the Assessee is allowed for statistical purposes.

Order pronounced on 19.07.2024.

**Sd/-**  
**(Ms. Padmavathy S)**  
**Accountant Member**

**Sd/-**  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated : 19.07.2024  
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