

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER  
AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.450/MUM/2024  
Assessment Year: 2017-18  
&  
ITA No.451/MUM/2024  
Assessment Year: 2016-17**

<b>Shri RANA KAPOOR</b> 427-428, 27 <sup>th</sup> floor, Samudra Mahal, Dr A B Road, Worli, Mumbai - 400018 <b>PAN: AHIPK0411A</b>	Vs.	<b>Deputy Commissioner of Income Tax,</b> Central Circle 6(4), Room No.1925, 19 <sup>th</sup> Floor, Air India Building, Nariman Point, Mumbai - 400021
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Dharan Gandhi, A.R.  
Revenue by : Smt. Sanyogita Nagpal, D.R.

Date of Hearing : 13 . 06 . 2024  
Date of Pronouncement : 25 . 07 . 2024

**O R D E R**

**Per : Narender Kumar Choudhry, Judicial Member:**

These appeals have been preferred by the assessee against the orders even dated 03.01.2024, impugned herein, passed by the 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. 2016-17 & 2017-18.

**2.** The issues involved in both the appeals are identical and therefore for the sake of brevity, the same were heard together and are being disposed of by this composite order and considering **ITA No.450/M/2024** as a lead case and result of the same shall apply mutatis mutandis to both the appeals under consideration.

**3. ITA No.450/M/2024 :** In this case the Assessing Officer (AO) vide assessment order dated 31.03.2022 under section 147 of the Act has made the addition of Rs.300 crores under the provisions of section 28(iv) of the Act. The assessee, being aggrieved, challenged the said addition by filing first appeal before the Ld. Commissioner, who though sent various notices to the assessee, however, the assessee neither complied with the notices nor attended the appellate proceedings in response to the notices sent. Therefore, the Ld. Commissioner considering the detailed findings of the AO to the effects "*that the assessee has misused his position and in turn took benefit in the form of loans in the NTTs controlled by him*" ultimately dismissed the appeal of the assessee for the want of prosecution.

**3.1** Shri Dharan Gandhi, the Ld. A.R. before us tried to demonstrate that first notice by which the communication window was opened in fact was sent on 15.11.2022 at the correct email address, however, thereafter various notices were sent to the email address i.e. "[ranakapoor@gmail.com](mailto:ranakapoor@gmail.com)". In fact, this was not the email address mentioned in form No.35 on which the notices were supposed to be sent. Even otherwise the said email address was not accessible to the authorized signatory. Mr. Gandhi in order to demonstrate the aforesaid factual aspect, also submitted the screenshot of portal giving details of all the notices. Mr. Gandhi the further submitted that only the last notice dated 14.12.2023 was issued to the correct email address i.e. "bindukapoor2007@gmail.com" which has been mentioned by the assessee in form No.35, however, the said notice

could not be complied with due to the personal difficulties faced by the assessee and by his family, as various litigations were going on . Mr. Gandhi further submitted that not sending/issuing notices of hearing at the correct address, amounts to non-granting of sufficient opportunity of being heard and therefore for the ends of justice, the Assessee may be afforded an opportunity of being heard by remanding the instant case to the file of the Ld. Commissioner for decision on merits.

**4.** We have given thoughtful considerations to the peculiar facts and circumstances of the case and observe that on 09.11.2022 the notice was sent to the assessee at his email address i.e. "[ranakapoor@gmail.com](mailto:ranakapoor@gmail.com)" as well as to "[bindukapoor2007@gmail.com](mailto:bindukapoor2007@gmail.com)" and thereafter on 12.10.2023, 31.10.2023, 21.11.2023 and 05.12.2023 notices were sent to email address i.e. "[ranakapoor@gmail.com](mailto:ranakapoor@gmail.com)" and thereafter on 14.12.2023 the notice was sent to both email addresses i.e. "[ranakapoor@gmail.com](mailto:ranakapoor@gmail.com)" as well as "[bindukapoor2007@gmail.com](mailto:bindukapoor2007@gmail.com)" which goes to show that the assessee was given sufficient opportunity to defend his case, therefore the contention of the assessee to the effect that sending the notices at the wrong address is un-sustainable. We observe that it is also not the case here that the assessee has not provided his email address i.e. "[ranakapoor@gmail.com](mailto:ranakapoor@gmail.com)" in the relevant income tax record and therefore the assessee does not deserve any leniency, however, considering the peculiar facts and circumstances of the case, as the Ld. Commissioner in the absence of relevant reply/documents was unable to decide the issue involved in its right perspective and in proper manner, hence for the just decision of the case and for the ends of substantial justice, we are inclined to remand the instant case to the file of the Ld. Commissioner for decision on merits.

**5.** 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. Hence, the case is remanded accordingly.

**6.** In the result, both the appeals filed by the assessee stand allowed for statistical purposes.

**Order pronounced in the open court on 25.07.2024.**

**Sd/-  
(GIRISH AGRAWAL)  
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.