

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

**ITA No.951/M/2024
Assessment Year: 2014-15**

Mr. Pankaj Jayantilal Joshi, Flat No.2101, 21 st Floor, Silver Heights, Sarojini Naidu Rd., Tambe Nagar, Mulund West, Mumbai Maharashtra-400 080 PAN: AARPJ2964P	Vs.	Income Tax Officer, Ward 41(2)(4), Room No.248, Kautilya Bhavan, C-41 to C-43, G Block, BKC, Bandra (East), Mumbai Maharashtra - 400051
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Shri R.R. Makwana, Sr. DR.

Date of Hearing : 14 . 08 . 2024
Date of Pronouncement : 23 . 08 . 2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 04.01.2024, 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. 2014-15.

2. Though the Assessee, has filed an application dated 09.08.2024 for adjournment of the case fixed on 14.08.2024, however, on the date of hearing i.e. on 14.08.2024 the Assessee did not appear. We observe from the impugned order that the same is an ex-parte order, hence, we are constrained to decide this appeal by taking into consideration the orders passed by the authorities below.

3. In the instant case, the Assessing Officer (AO) vide order dated 20.11.2018 u/s 143(3) r.w.s. 147 of the Act has made the addition of Rs.17,56,916/- u/s 68 of the Act. The Assessee though challenged the aforesaid addition before the Ld. Commissioner, however, in spite of sending three notices, made no compliance either by filing any reply or any document in support of his claim. Therefore, in the constrained circumstances, the Ld. Commissioner by following the judgment of the Tribunal at Delhi in CIT vs. Multiplan India Pvt. Ltd. 38 ITRD 320 (Delhi) dismissed the appeal of the Assessee and consequently upheld the addition made by the AO. We observe that the Ld. Commissioner specifically in the absence of any supporting material and documentary evidences was constrained to decide the appeal filed by the Assessee as an ex-parte but failed to decide to decide the issues involved in its right perspective and proper manner and therefore considering the peculiar facts and circumstances of the case in totality and for the just decision of the case and end of substantial justice, we are inclined to afford one more opportunity to the Assessee to substantiate his claim before the Ld. Commissioner. **Thus, the case is accordingly 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.**

4. 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.

5. In the result, the appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced in the open court on 23.08.2024.

**Sd/-
(OMKARESHWAR CHIDARA)
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.