

**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.318/M/2024
Assessment Year: 2013-14**

M/s. T.J. Jewellers, 302, 3 rd Floor, Trisha Apartment, 16/100 Shivdas Chapsi Marg, Mazgaon, Mumbai – 400 010 PAN: AAFFT6220L	Vs.	ITO Ward 18(3)(4), Piramal Chambers, Lalbaug Parel, Mumbai – 400 012 Maharashtra
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Suchek Anchaliya, A.R.
Revenue by : Shri R.R. Makwana, Sr. D.R.

Date of Hearing : 20 . 08 .2024
Date of Pronouncement : 30 . 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 24.11.2023, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ the Ld. Addl/Joint Commissioner of Income Tax (Appeals) (in short "Ld. Addl./Joint Commissioner") for the A.Y. 2013-14.

2. In the instant case, the Assessing Officer (AO) vide order dated 28.12.2018 u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 (in short 'the Act') has made the addition of Rs.3,71,584/- being 16.6% of the sale transactions of Rs.22,27,723/-. The Assessee, being aggrieved, challenged the said addition as well as reopening of the case u/s 147/148 of the Act before the Ld. Addl./Joint Commissioner, however, in spite of sending various notice, the Assessee made no compliance and therefore in the constrained circumstances, the Ld. Addl./Joint Commissioner not only affirmed the reopening of the case u/s 147 of the Act but also affirmed the addition for not submitting any substantive documents by the Assessee qua its claim. Resultantly due to fault of the Assessee, the issue involved qua addition remained to be adjudicated in its right perspective and proper manner and therefore, the Assessee do not deserve any leniency. However, considering the peculiar facts and circumstances of the case in totality for the just decision of the case and substantial justice, we are inclined to remand the instant case to the file of the Ld. Addl./Joint Commissioner for decision afresh, suffice to say by affording reasonable opportunity to the Assessee to substantiate its case. We clarify that in case of further default the Assessee shall not be entitled for any leniency. Thus, the case is remanded to the file of the Ld. Addl./Joint Commissioner accordingly.

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

Order pronounced in the open court on 30.08.2024.

**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.