

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

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.1785/M/2024
Assessment Year: 2010-11**

| | | |
|---|------------|--|
| Mangal Sago Private Limited 6-6-10, Vijay Nagar Sangh, Sai Darshan Chsl., Shaikh Misree Road, Antop Hill, Maharashtra- 400037. PAN: AAACM9975H | Vs. | ITO WARD 7(2)(1) Ayakar Bhavan, Churchgate- 400020. |
| (Appellant) | | (Respondent) |

Present for :

Assessee by : Shri Mahesh Saboo, A.R.

Revenue by : Shri Sunil Shinde, Sr. A.R.

Date of Hearing : 13 . 08 . 2024

Date of Pronouncement : 28 . 08 . 2024

ORDER

Per : Ratnesh Nandan Sahay, Accountant Member:

1. This appeal has been filed by the appellant against the Order of the Ld. CIT (Appeals) passed u/s. 250 of the Income Tax Act [the 'Act' in short]

vide DIN & Order No. ITBA/NFAC/S/250/2023-24/106378439(1) Dated 31/03/2024 for the Assessment Year 2010-11.

2. Following grounds of appeal have been raised by the appellant:

1. *“On the facts and circumstances of the case and in law the authorities below have erred in making/sustaining an addition of Rs.40,00,000/- u/s 68/69 of the IT Act, holding that it was un-explained expenditure and the reasons assigned for doing so, were wholly wrong, inconstant with the facts of the case and not in accordance with the provisions of Income Tax Act, 1961 and rules made thereunder.*
2. *The facts and circumstances of the case and in law the authorities below have erred in making/sustaining an addition of Rs.66,00,000/- being the short term capital loss sustained on sale of shares and not allowing the same to be adjusted under intra head adjustment, and the reasons assigned for doing so, were wholly wrong, inconstant with the facts and not in accordance with the provisions of Income Tax Act, 1961 and rules made thereunder.*
3. *On the facts and circumstances of the case and in law, the authorities below have erred in levying the interest u/s 234B and 234C of the 1 T which was wholly wrong, and against the provisions of Income Tax Act, 1961 and rules made thereunder.*
4. *On the facts and circumstances of the case and in law, the authorities below have erred in initiating the penalty proceedings u/s 271(1)(c) of the Income Tax Act, 1961 which were wholly wrong, irrelevant, and not in accordance with the facts and circumstances of the case as no income is concealed nor any inaccurate particulars were furnished.*
5. *The appellant craves leave to add, alter, modify and delete all or any of the aforesaid grounds of appeals on or before the date of hearing.”*

3. The facts of the case, in brief, are that the *“appellant is a private limited company engaged in the business of trading and investment. The*



appellant company has regular assessed to tax with ITO Ward 7(2)(1) at Aayakar Bhavan ITO WARD 7(2)(1), Ayakar Bhavan, Churchgate, Mumbai - 400020. During the year under consideration, the Ld. AO made an addition of Rs.40,00,000 as explained expenditure and Rs.66,00,000/- was disallowed claimed as Short Term Capital Loss. Aggrieved by the order of the Ld. AO, the assessee filed appeal before the Ld. CIT(A) who according to the appellant dismissed the appeal and sustain the additions made by the Ld. AO without offering any opportunity of being heard to the assessee in the matter under consideration, despite, the fact that the written submission/evidence had been submitted before him in the past several times. Thus, without taking the factual aspect into account, the appeal was dismissed by the Ld. CIT(A) for non appearance which is against the principle of natural justice and against the provisions of law in this regard.”

4. We have considered the facts of the case, assessment order and the Ld. AO. We have also considered the order of the Ld. CIT(A) in which the Ld. CIT(A) in the impugned order has stated that Ld. CIT(A) had issued 19 notices to the appellant starting from 18/12/2015 till the disposal of the appeal on 31/03/2024 on the registered email ID of the appellant as well as on the e-filing portal as per the ITBA records but not a single response



was ever received from the assessee, the Ld. CIT(A), therefore, decided the appeal on merit and dismissed the appeal of the assessee.

5. We have considered the facts of the case, order of the Ld. CIT(A) and the submission made by the appellant during the appellant proceedings and we are of the view that some more opportunity should be given to the appellant to explain his case before the Ld. CIT(A) who can decide the issue on merit. Accordingly, we direct the Ld. CIT(A) to provide reasonable opportunity of being heard to the appellant and decide the issue accordingly.
6. In the result, appeal is allowed for statistical purpose.

Order pronounced in the open court on 28.08.2024.

Sd/-
AMIT SHUKLA
JUDICIAL MEMBER

Sd/-
RATNESH NANDAN SAHAY
ACCOUNTANT MEMBER

Mumbai, Dated: 28.08.2024.
Snehal C. Ayare, Stenographer

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.