

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

**BEFORE SHRI. PRASHANT MAHARSHI, ACCOUNTANT MEMBER AND**  
**SHRI. SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA no.2881/Mum./2024**  
(Assessment Year : 2020-2021)

**Shubh Multitrade Private Limited**

501, A, Dhruv Building,  
Gulmohar Road, N.S.I. J.V.P.D.,  
Vile Parle, Mumbai – 400049.  
PAN-AAHCS8610G

..... Appellant

v/s

**Income Tax Officer,**

Ward – 11(2)(1), Mumbai – 400020.

..... Respondent

Assessee by : Shri. None.

Revenue by : Shri. Akhatar Hussain Ansari, Sr. DR

Date of Hearing – 03/09/2024

Date of Order – 11/09/2024

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

1. The present appeal has been filed by the assessee challenging the impugned order dated 21/03/2024 passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [*"learned CIT(A)"*], for the assessment year 2020-21.
2. In the interest of justice, the delay of one day in filing the present appeal is condoned.



3. In this appeal, the assessee has raised the following grounds: –
1. *"On the facts and circumstances of the case and in law, the Learned CIT (Appeal) erred in confirming the addition made in assessment order by Ld. AO without appreciating the facts that the appellant company did not have any connection/ transaction with Mr. Ramgopal Garodia.*
    - 1.1 *On the facts and circumstances of the case and in law, the Learned CIT(Appeal) not appreciate the fact that Ld. AO has made addition merely relying on statement of Mr. Ramgopal Garodia who has stated false fact that he was director in appellant company whereas it is completely incorrect.*
    2. *On the facts and circumstances of the case and in law, the Learned CIT (Appeal) erred in confirming addition of Rs. 10,00,000/- by applying 10% commission on total accommodation entry of Rs. 1,00,00,000/- without appreciating the fact that no evidence corroborating the rate of 10% has been found during and after the search proceedings against the appellant.*
      - 2.1 *On the facts and circumstances of the case and in law, the Learned CIT(Appeal) erred in confirming the addition of Rs. 5,00,000/- without considering the fact that addition @5% of Rs. 1,00,00,000/- (same accommodation entry) for AY 2021-22 has already been made by Ld. AO."*
  4. The brief facts of the case are that for the year under consideration, the assessee filed its return of income on 06/01/2021 declaring a total income of Rs.2730. The return filed by the assessee was selected for complete scrutiny and statutory notices under section 143(2) as well as section 142(1) of the Act were issued and served on the assessee. However, no response was filed on behalf of the assessee. During the assessment proceedings, it was noticed that the search and seizure action under section 132 of the Act was carried out in the case of One World Group of cases on 06/11/2019. During the post-search proceedings, the statement on oath under section 131 of the Act of one of the Directors of the assessee was recorded by DDIT (Investigation), Unit-4 (3), Mumbai on 09/12/2019. In the statement, the Director accepted that the assessee company is not doing any genuine business and is engaged in providing accommodation entries to various beneficiaries. It was further submitted that the bogus sales transaction of Rs. 1 crore made by the



assessee is not genuine. Since the assessee did not file any reply in response to various notices issued during the assessment proceedings, therefore the Assessing Officer ("AO") proceeded to complete the assessment on a best-judgment basis under section 144 of the Act. Vide order dated 23/09/2022 passed under section 144 read with section 144B of the Act, the AO by placing reliance upon the aforesaid statement of one of the Directors of the assessee held that the assessee has provided accommodation entries to the tune of Rs. 1 crore in the form of bogus sale and purchase bills in lieu of certain commission. In the absence of any information received from the assessee, the AO assessed the income of the assessee by applying a commission rate of 10% on a total accommodation entry of Rs. 1 crore provided during the year under consideration and made an addition of Rs.10,00,000 to the total income of the assessee.

5. It is undisputed that even before the learned CIT(A), the assessee failed to comply with various hearing notices. Accordingly, the learned CIT(A) dismissed the appeal filed by the assessee and upheld the addition of Rs.10,00,000 made by the AO. Being aggrieved, the assessee is in appeal before us.

6. Having considered the submissions and perused the material available on record, it is evident that the AO as well as the learned CIT(A) has passed the order in the absence of any details being furnished by the assessee. Now in appeal before us, the assessee is duly represented by the learned AR and wishes to pursue the litigation against the addition made by the AO. During



the hearing, the learned AR undertook that the assessee will furnish all the necessary details pertaining to the impugned addition if the matter is restored. In view of the above, we are of the considered opinion that in the interest of justice and fair play, the assessee be granted one more opportunity to represent its case on merits. Consequently, we deem it fit and proper to set aside the impugned order on this issue and restore the matter to the file of the jurisdictional AO for *de novo* adjudication on merits, with a direction to identify the beneficiaries and levy a tax in the hands of the beneficiaries of the accommodation entry transaction. Further, after necessary verification make addition only in respect of commission in the hands of the assessee if it is established that it is an accommodation entry provider. No order shall be passed without affording reasonable opportunity of hearing to the parties. The assessee is directed to cooperate in assessment proceedings and file all the details as may be required by the AO. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

7. In the result, the appeal by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 11/09/2024

**Sd/-**  
**PRASHANT MAHARSHI**  
**ACCOUNTANT MEMBER**

**MUMBAI, DATED: 11/09/2024**  
*Karishma J. Pawar, (Stenographer)*

**Sd/-**  
**SANDEEP SINGH KARHAIL**  
**JUDICIAL MEMBER**



Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar  
ITAT, Mumbai