

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

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

**ITA no.4881/Mum./2023**  
(Assessment Year : 2012-2013)

**Atul U Rege HUF**

1301, Prathmesh Residency,  
NE Bhavans College, Andheri (West),  
Mumbai - 400058.  
PAN-AAHHA4634H

..... Appellant

v/s

**Assistant Commissioner of Income Tax**

Circle 24(1), Piramal Chambers,  
Mumbai - 400012.

..... Respondent

Assessee by : Ms. Parna Samant  
Revenue by : Shri. Manoj Kumar Sinha, (Sr. DR)

Date of Hearing - 10/09/2024

Date of Order - 12/09/2024

**ORDER**

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

The present appeal has been filed by the assessee challenging the impugned order dated 09/11/2023 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 2012-13.

2. In this appeal, the assessee has raised the following grounds: -



1. *"The Learned Commissioner of Income Tax (Appeals) erred in proceeding to pass the order on 9th November 2023, despite the fact that an adjournment had been sought, and the date until which the adjournment had been sought, had not expired.*
2. *The learned Commissioner of Income Tax (Appeals), on account of his action set out above did not permit the appellant to raise an additional ground of appeal that the assessment order was bad in law, void ab initio as the said order did not carry a document identification number (DIN), and no exceptional circumstances for its absence were shown.*
3. *The learned Commissioner of Income Tax (Appeals), erred in confirming the action of the assessing officer in invoking the provisions of section 147 read with section 148 despite the fact that the reopening was bad in law and was based on erroneous appreciation of facts and the reasons recorded are such that they could not have formed the basis or live link for forming a "reason to believe".*
4. *The learned Commissioner of Income Tax (Appeals), erred in not appreciating that the assessing officer merely relied on the information received from the investigation wing without considering that neither the statements recorded by the concerned persons on oath nor any information revealed direct nexus or connection with the appellant. Thus, the reopening was bad-in-law.*
5. *The learned Commissioner of Income Tax (Appeals), erred in confirming the action of the assessing officer in reopening the assessment which was made u/s 143(3) when the appellant had truly and fully disclosed all the material facts necessary for the purposes of original assessment.*
6. *Without prejudice to the above grounds and strictly in the alternative, the Commissioner of Income Tax (Appeals), erred in confirming the action of the assessing officer of treating the loan amount of Rs. 1,35,99,286/- taken from M/s. Banas Finance Ltd and Rs.3,67,74,507/- from M/s. Confidence Finance and Trading Ltd totalling to Rs. 5,03,73,793/-as non-genuine.*
7. *The learned Commissioner of Income Tax (Appeals) erred in not appreciating that the assessing officer had failed to consider the substantial evidence adduced by the appellant to prove the identity, genuineness and creditworthiness of the loan creditors and thus erred in treating the said loan transactions as unexplained cash credits u/s 68.*
8. *The learned Commissioner of Income Tax (Appeals), erred in confirming the action of the assessing officer in not allowing the set off of assessed business loss of Rs.5,46,13,384.*
9. *Without prejudice to the above grounds and strictly in the alternative, the learned Commissioner of Income Tax (Appeals), erred in confirming addition of Rs. 1,35,99,286/- in case of loan from Banas Finance Ltd. instead of Rs. 1,14,58,597/-"*



3. During the hearing, the learned Authorised Representative (“learned AR”), at the outset, submitted that the learned CIT(A) vide impugned order dismissed the appeal filed by the assessee without giving reasonable opportunity of hearing to the assessee. The learned AR submitted that on 26/10/2023 the learned CIT(A) issued a notice directing the assessee to file written submissions on or before 02/11/2023 in support of the grounds of appeal raised by the assessee along with the documentary evidence. In response thereto, the assessee filed an application seeking an adjournment to compile the details as required. It is submitted that however on 09/11/2023 the learned CIT(A) dismissed the appeal filed by the assessee and upheld the addition made by the Assessing Officer.

4. Having considered the submissions and perused the material available on record, it is evident that the learned CIT(A) has passed the order ex parte. 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 submitted that the learned CIT(A) dismissed the appeal filed by the assessee ex parte without granting an adjournment as sought by the assessee. In view of the above, we are of the considered opinion that in the interest of justice, the assessee be granted one more opportunity to represent its case on merits before the learned CIT(A). Consequently, we deem it fit and proper to set aside the impugned order and restore the matter to the file of the learned CIT(A) for *de novo* adjudication of the appeal on merits after consideration of all the details/submissions as



may be filed by the assessee. No order shall be passed without affording the reasonable and adequate opportunity of hearing to the parties. The assessee is directed to appear before the learned CIT(A) on all the dates of hearing as may be fixed without any default. As the matter is being restored to the file of the learned CIT(A) for adjudication on merits, the other grievances raised by the assessee in the present appeal do not call for adjudication at this stage. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 12/09/2024

**Sd/-**  
**AMARJIT SINGH**  
**ACCOUNTANT MEMBER**  
**MUMBAI, DATED: 12/09/2024**  
*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