

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "A", MUMBAI  
**BEFORE SHRI NARENDER KUMAR CHOUDHARY, JUDICIAL MEMBER AND  
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

**ITA No. 2858/Mum/2024 (A.Y.2017-18)**

**Ali Akbar Sami Choudhari,**

TPS-3, 1<sup>st</sup> floor, Basuri Apartments,

Pali Naka, Bandra (W)

Mumbai – 400 050

PAN No. ABVPC9898A

.... Appellant

Vs.

**DCIT Circle 23(1)**

Piramal Chamber,

Lower Parel

Mumbai- 400 012

.... Respondent

Appellant by	:	Ms. Vinita Shah, Ld. AR
Respondent by	:	Shri Manoj Kumar Sinha, Ld. DR
Date of hearing	:	23/07/2024
Date of pronouncement	:	02/09/2024

**ORDER**

**PER GAGAN GOYAL, A.M:**

This appeal by assessee is directed against the order of National Faceless Appeal Centre (for short "NFAC") Delhi dated 15.03.2024 passed u/s. 250 of the Income Tax Act, 1961 (in short 'the Act') for A.Y. 2017-18. The assessee has raised the following grounds of appeal: -

*The Grounds of Appeal mentioned hereunder are without prejudice to one another: -*

1. *on the facts and circumstances of the case and in law, the learned Commissioner of Income Tax (Appeal) erred in appreciating the issuance of notice u/s. 148 of the Act without recording of appropriate satisfaction as required by provisions of section 151 and therefore, the notice itself is bad in law.*

2. *On the facts and circumstances of the case and in law, the learned Commissioner of Income Tax (Appeal) erred in confirming the addition of Rs. 44,99,445/- on account of difference in repayment of EMI/loan and income earned during the year without appreciating that there was no whisper about the said in the reasons recorded and there was no addition made on the basis of reasons and therefore the only addition in regard to difference in repayments of EMI/loan and income earned during the year which is beyond the reasons is bad in law as held by Jurisdictional Honourable Bombay High Court in case of Jet Airways Ltd (2011) 331 ITR 236.*

3. *On the facts and circumstance of the case and in law, the learned Commissioner of Income Tax (Appeal) erred in making the addition of Rs. 44,99,445/- under section 69C of the Act unexplained expenditure on account of difference in repayments of EMI/loan and income earned during the year, without appreciating the explanation and documents submitted during the assessment proceeding.*

*The appellant craves leaves to add, to delete, or amend any of the above grounds of appeal at the time of the hearing.*

2. The brief facts of the case are that the assessee individual in involved in the activity of business activities consists mainly of organizing and providing DJ Events and Concerts and filed his ROI u/s. 44ADA of the Act declaring total income as per the provisions of section 44ADA of the Act. The AO was in possession of certain information about the assessee has entered the following transactions during the year under consideration as under:

- Purchase of immovable property – Rs. 4,77,87,434/-
- T.D.S. Return- Professional Fee u/s. 194J – Rs. 13,31,350/-
- Cash deposited - Rs. 14,49,500/-
- Purchase of Bonds/Debentures - Rs. 31,00,000/-

- Sale of Immovable Property - Rs.  
31,00,000/-

3. Based on above information, the case of the assessee was re-opened u/s. 147 of the Act and notice u/s. 148 of the Act was issued on 31.03.2021. The assessee filed his return of income in compliance to the notice u/s. 148 of the Act at Rs. 15, 27,680/-. Ultimately, the case of the assessee was assessed at Rs. 60,27,125/- after making an addition of Rs. 44,99,445/-. The assessee being aggrieved with this order of the AO preferred an appeal before the Ld. CIT (A), who in turn confirmed the order of the AO, as the assessee did not respond to any of the notices issued by the office of the Ld. CIT (A). The assessee being further aggrieved with the order of the Ld. CIT (A), preferred the present appeal before us.

4. We have gone through the Order of the AO, order of the Ld. CIT (A) and submissions of the assessee along with grounds taken before us. It is observed vide para 4.1 of the appeal order that notices were issued to the assessee on 03.08.2022, 31.08.2022, 26.02.2024, 07.03.2024 fixing the case for 18.08.2022, 15.09.2022, 04.03.2024, 14.03.2024 respectively. The assessee has replied only for adjournment on 15.03.2024, rest of the notices were not complied with, however some documents received on 14.03.2024, which were corrupt and were of no use. It is also not clear from the records before us, whether the notices were uploaded on ITBA portal only or sent on e-mail ID of the assessee also.

5. In view of the above facts we deem it fit to restore the matter back to the file of the Ld. CIT (A) for fresh hearing after giving the assessee a proper

opportunity of being heard and further instructed to send communications on e-mail ID also. The assessee is directed to be vigilant and cooperative enough in the proceedings before the Ld. CIT(A) by regularly visiting the ITBA portal and e-mail ID furnished by him without seeking any adjournment in the proceedings and present relevant information as required by the office of the Ld. CIT(A). In above terms grounds raised by the assessee are allowed for statistical purposes.

**6. In the result, the appeal filed by the assessee is allowed for statistical purposes.**

Order pronounced in the open court on 2<sup>nd</sup> day of September 2024.

Sd/-

(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER

Mumbai, दिनांक/Dated: 02/09/2024

*Dhananjay, Sr. PS*

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्ड फाइल/Guard file.

Sd/-

(GAGAN GOYAL)  
ACCOUNTANT MEMBER

BY ORDER,

//True Copy//

(Asstt. Registrar)  
ITAT, Mumbai