

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

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

**ITA no. 4053/Mum./2024**  
(Assessment Year :2017-2018)

**Mr. Ashok Khetshi Shah**

15/2, 3<sup>rd</sup> Floor, Agrawal Nagar, Dr. Ambedkar  
Marg, Matunga (C.R), Mumbai – 400019.  
PAN-AOQPS7920D

..... Appellant

v/s

**Income Tax Officer - 20(1)(1)**

Piramal Chambers, Lal Baug, Mumbai – 400012.

..... Respondent

Assessee by : None

Revenue by : Shri Ram Krishna Kedia (Sr. DR)

Date of Hearing – 16/09/2024

Date of Order – 20/09/2024

**ORDER**

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

The present appeal has been filed by the assessee challenging the impugned order dated 12/06/2024 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 2017-18.

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

1. *"The National Faceless Appeal Centre has erred in law, facts and circumstances of the case by confirming the addition of Rs. 2,35,48,310/- u/s69A of the Income Tax Act, 1961.*
2. *The National Faceless Appeal Centre has erred in law, facts and circumstances of the case by confirming the addition of Rs.*

- 2,35,48,310/- u/s 69 of the Act on the ground that the loan given to Jeaneration Clothing Private Limited is Rs. 2,35,48,310/- inspite of the fact that the loan given to Jeaneration Clothing Private Limited during the year under consideration is Rs. 1,89,00,000/- only.*
- 3. The National Faceless Appeal Centre has erred in law, facts and circumstances of the case by confirming the addition of Rs. 2,35,48,310/- u/s 69 of the Act inspite of the fact that the Appellant has borrowed the money through bank.*
  - 4. The National Faceless Appeal Centre has erred in law, facts and circumstances of the case by confirming the addition of Rs. 2,35,48,310/- u/s 69 of the Act inspite of the fact that the details of loan taken from the parties were submitted during the course of Assessment Proceedings to explain the source of the loan given to Jeaneration Clothing Private Limited.*
  - 5. The National Faceless Appeal Centre has erred in law, facts and circumstances of the case by confirming the addition of Rs. 34,34,870/- u/s 69A of the Income Tax Act on the ground that the source of funds has not been furnished for purchase of immovable property.*
  - 6. The National Faceless Appeal Centre has erred in law, facts and circumstances of the case by confirming the addition of Rs. 13,11,750/- u/s 56(2)(vii)(b) of the Income Tax Act on the ground that the immovable property is purchased for a consideration which is less than Stamp duty value and ignoring the fact that the date of booking is different from date of registration*
  - 7. Your Appellant craves leave to add to, alter, amend, delete and/or modify the above grounds of appeal on or before the final date of hearing.*
  - 8. Prayer: The Appellant prays your honor for allowing the appeal."*

3. We have considered the submissions of both sides and perused the material available on record. In the present case, at the outset, it is evident that the learned CIT(A) has passed the order ex-parte due to the non-appearance of/on behalf of the assessee. We further find that the learned CIT(A) merely on the basis of non-compliance with notices, dismissed the appeal filed by the assessee without adjudicating the grounds raised by the assessee on merits, as required under section 250(6) of the Act. We find that in CIT v/s Premkumar Arjundas Luthra (HUF), [2016] 69 taxmann.com 407 (Bombay), the Hon'ble Jurisdictional High Court held that Commissioner (Appeals) cannot dismiss the appeal on account of non-prosecution of

appeal by the assessee. 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. We further direct that no order shall be passed without affording reasonable 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.

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

Order pronounced in the open Court on 20/09/2024

**Sd/-**  
**AMARJIT SINGH**  
**ACCOUNTANT MEMBER**  
**MUMBAI, DATED: 20/09/2024**

**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