

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.3663/M/2024
Assessment Year: 2012-13**

Shri Shailesh Kantilal Shah, 503, Dharam Palace, Hughes Road, Gamdevi, Mumbai- 400 007 Maharashtra PAN: AAFPS5517F	Vs.	Income Tax Officer- Ward 19(3)(1), Piramal Chambers, Mumbai - 400012
(Appellant)		(Respondent)

Present for:

Assessee by : Ms. Dinkle H. Hariya, A.R.
Revenue by : Smt. Sujatha P. Iyengar, Sr. A.R.

Date of Hearing : 05 . 09 .2024
Date of Pronouncement : 16 . 09 .2024

O R D E R

Per : Narender Kumar Choud[hry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 21.06.2024, impugned herein, passed by the National Faceless Appeal Center (NFAC)/Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2012-13.

2. In the instant case, the Assessing Officer (AO) vide assessment order dated 30.03.2015 u/s 143(3) of the Act has made the additions of Rs.14,55,050/- & Rs.44,69,500/- respectively on account of disallowance of deduction claim of interest paid and un-explained cash deposit u/s 68 of the Act.

3. The Assessee, being aggrieved, though challenged the aforesaid additions before the Ld. Commissioner, however, despite affording opportunities by sending notices dated 19.04.2024 and 11.06.2024 neither complied with the notices nor filed any submission/documents and therefore the Ld. Commissioner in the constrained circumstances and in the absence of satisfactory explanation on the part of the Assessee, ultimately affirmed the aforesaid decisions by dismissing the appeal of the Assessee.

4. The Assessee, being aggrieved, is in appeal before us. The Ld. Counsel of the Assessee at the outset has submitted that previous tax consultant of the Assessee has died unfortunately which resulted into non compliance of the notices sent by the Ld. Commissioner, however, the present counsel undertakes to comply with the notices and to file the relevant reply/submission and documents for the proper adjudication of the case/issues involved.

5. On the contrary, the Ld. D.R. refuted the claim of the Assessee.

6. We have given thoughtful consideration to the rival claim of the parties and peculiar facts and circumstances of the case. We observe that the Ld. Commissioner, in the absence of relevant documents/submissions and satisfactory explanation which the Assessee has failed to file, decided the issues under consideration in summary. The Assessee remained non-complaint and therefore does not deserve any leniency, however, considering the peculiar facts and circumstances in totality, as the previous tax consultant of the Assessee has died and the issues adjudicated by the Ld. Commissioner remained to be adjudicated in its right perspective and proper manner, hence, for the just decision of the case and substantial justice, we are inclined to remand the instant case to the file of the Ld. Commissioner for decision afresh, suffice to say by affording reasonable opportunity to the Assessee to substantiate his claim. We clarify that in case of subsequent default, the Assessee shall not be entitled for any leniency.

6. In the result, the appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced in the open court on 16.09.2024.

**Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

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

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.