

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

**ITA No.1365/M/2024
Assessment Year: 2017-18**

Ms. Tejal Nilesh Sorthi Near Civil Court, Dahanu Road, Palghar - 401602 Maharashtra PAN: DXVPS5353B (Appellant)	Vs.	Income Tax Officer, Income Tax Department, Ward 5, Palghar - 401602 Maharashtra (Respondent)
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Present for:

Assessee by : Shri Sujesh Suaratwala, A.R.
(Virtual Appearing)

Revenue by : Shri R. R. Makwana, SR D.R.

Date of Hearing : 22 . 08 . 2024

Date of Pronouncement : 17 . 09 . 2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 25.01.2024, 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. 2017-18.

2. In the instant case the Assessing Officer (AO) vide assessment order dated 12.12.2019 u/s 143(3) of the Act has made the addition of Rs.13,19,500/- as unexplained money under section 69A of the Act and taxed the same u/s 115BBE of the Act.

3. The Assessee, being aggrieved, challenged the said addition before the then Ld. Commissioner, however, as it appears from the para 3 of the impugned order that despite sending various notices the Assessee made no compliance and therefore in the absence of relevant information/documents and due to the non-compliance by the Assessee, the Ld. Commissioner ultimately dismissed the appeal of the Assessee in limine and without discussing anything on the merits of the case. The conduct of the Assessee seems to be non-compliant and therefore the Assessee does not deserve any leniency. However, considering the peculiar facts in totality that the Ld. Commissioner failed to decide the appeal on merits and therefore for the just decision of the case and for substantial justice, the case is remanded to the file of the Ld. Commissioner for decision afresh, however, subject to deposit of Rs.1000/- as a token cost which is to be deposited in the Revenue Department within 30 days from the receipt of this order. Suffice to say the Ld. Commissioner shall afford reasonable opportunity to the Assessee to substantiate her claim. We clarify that in case of further default, the Assessee shall not be entitled for any leniency.

3. In the result, the appeal filed by the Assessee is allowed for statistical purposes.

Order pronounced in the open court on 17.09.2024.

**Sd/-
(OMKARESHWAR CHIDARA)
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.