

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SMT RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No.1368/M/2022
Assessment Year: 2014-15**

Ms. Bhagyavanti Mahavir Jain, 115, Makhecha Mansion, Station Road, Thane, Mumbai Maharashtra- 400 602 PAN: ACAPJ2645J	Vs.	Income Tax Officer, Ward-1(5) Room No.14, B Wing, Ashar I.T Park, Road No.16-Z, Wagle Industrial Estate, Thane (West)-400 604 Maharashtra
(Appellant)		(Respondent)

Present for:

Assessee by : Ms. Dinkle Haria, A.R.
Revenue by : Shri B. Laxmi Kant, Sr. A.R.

Date of Hearing : 28.10.2024
Date of Pronouncement : 30.10.2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 05.04.2022, impugned herein, passed by the 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. 2014-15.

2. In this case, the Assessing Officer (AO) vide order dated 29.12.2016 u/s 143(3) of the Act has made the additions of Rs.29,62,250/- & Rs.11,46,000/- (in total Rs.41,08,250/-) respectively on account of share transactions qua M/s. Essar India Ltd. and M/s. Surbhi Chemicals India Ltd. mainly on the following reasons:

- (i) the basis of the investigation carried out by Directorate of Investigation, Kolkata and*
- (ii) purchase of shares was purchased from off market and*
- (iii) payment was made in cash and*
- (iv) there is no bank entry to corroborate the payment and*
- (v) the investment qua shares of M/s. Essar India Ltd. is not reflecting in the balance sheet as on 31.03.2012.*
- (vi) the shares were dematerialized after a gap of more than 11 months.*
- (vii) the Assessee could not offer any explanation as to how she came in contact with a Chennai based broker and*
- (viii) the Assessee was not aware about the companies in which she has made the transactions and*
- (ix) the Assessee has also failed to file the relevant documents in support of her claim.*

3. The Assessee, being aggrieved, challenged the said additions before the Ld. Commissioner who by impugned order affirmed the aforesaid additions more or less on the same reasoning as observed by the AO.

4. The Assessee, being aggrieved, is in appeal before us. The Ld. Counsel/Advocate Ms. Dinkle Haria on behalf of the Assessee though argued on the merits of the case, however, at last in order to cut short

the litigation respectfully submitted that though the Assessee has submitted various relevant documents as mentioned at Sl. No.4 in the paper book as filed before the Bench, however, the Ld. Commissioner did not consider the same, which resulted into non-appreciation of the documents relevant for adjudication of the issue, breach of the principle of natural justice and denial of opportunity of being heard.

4. On the contrary, the Ld. D.R. refuted the claim of the Assessee on the merits of the case, but not on this particular fact qua non-consideration of documents, as demonstrated by Ld. Counsel.

5. Having heard the parties and perused the material available on record, we observe that admittedly no such document as filed by the Assessee before the Ld. Commissioner, has either been considered or mentioned in the impugned by the Ld. Commissioner. Hence, without going into the merits of the case, as the documents in our considered view are essential for adjudication of the issues involved and therefore for the just decision of the case and substantial justice, we are inclined to set aside the impugned order and remand the instant case to the file of the Ld. Commissioner for decision afresh, suffice to say by considering the documents filed by the Assessee before the Ld. Commissioner as also before us and by giving sufficient opportunity of being heard to the Assessee. Thus the case is remanded to the file of Ld. Commissioner accordingly.

The Assessee is also directed to cooperate with the appellate proceedings and to file the relevant documents before the Ld. Commissioner. We clarify, in case of 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 30.10.2024.

**Sd/-
(RENU JAUHRI)
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.