

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

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

**ITA No.2985/M/2024  
Assessment Year: 2015-16**

<b>M/s. H.K. &amp; Co.</b> Shop No.5, Bhailal Bhuvan, 118, Keshavji Naik Road, New Chinch Bunder Road, Mumbai – 400 009 Maharashtra <b>PAN: AAFH3795L</b>	Vs.	<b>Income Tax Officer,</b> Ward-17(1)(5), Kautilya Bhavan, Bandra East Mumbai – 400 009 Maharashtra
(Appellant)		(Respondent)

**Present for:**

Assessee by : Ms. Dinkle Hariya, A.R. &  
Ms. Sruti Kalyanikar, A.R.  
Revenue by : Shri Dinesh A Chourasia, Sr. D.R.  
Date of Hearing : 11.10.2024  
Date of Pronouncement : 17.10.2024

**O R D E R**

**Per : Narender Kumar Choudhry, Judicial Member:**

This appeal has been preferred by the Assessee against the order dated 12.03.2024, impugned herein, passed by the Ld. Addl./Joint Commissioner of Income Tax (Appeals) (in short Ld. Addl./Joint Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2015-16.

**2.** At the outset , we observe that there is delay 18 days in filling the instant appeal, on which the Assessee by filling an application along with supporting affidavit has claimed that though the appeal was prepared and appeal fees was also paid on 18-05-2024 by the Assessee's Counsel but the same remained to be signed because the partner of Assessee's firm namely Mr. Mahendra Dedhia was not in town from 08-05-2024 to 21-05-2024 and therefore the delay of 18 days occurred inadvertently, which was neither malafide not intentional but because of the bonafide reason stated above. On the contrary the Ld. DR refuted the claim of the Assessee. Considering the reason given by the Assessee for condonation of delay as bonafide, genuine and unintentional, we are inclined to condone the delay, hence the same is condoned.

**3.** Coming to the merits of the case we observe that in the instant case the Assessing Officer (AO) vide assessment order dated 29.12.2017 u/s 143(3) of the Act has made the addition of Rs.5,82,140/- on account of disallowance of purchase expenditure mainly on the reason *"that the Assessee has shown purchases to the tune of Rs.1,05,54,208/- from M/s. Manoshi Enterprises, whereas reply received from M/s. Manoshi Enterprises, on 29.12.2017 via email in response to the notice u/s 133(6) of the Act, the sale was of Rs.1,00,42,250/-. It is clear that the Assessee has inflated his purchases by Rs.5,11,958/- (Rs.1,05,54,208/- – Rs.1,00,42,250/-)"*.

**4.** The Assessee, being aggrieved, challenged the aforesaid addition before the Ld. Addl./Joint Commissioner, who vide impugned order affirmed the said addition of Rs.5,11,958/- mainly on the reason, since the information u/s 133(6) was showing purchases to the extent of Rs.1,00,42,250/- only as against the purchases of Rs.1,05,54,208/- shown by the Assessee.

**5.** The Assessee, being aggrieved, is in appeal before us. The Ld. Counsel Ms. Dinkle Hariya, at the outset submitted that though the Assessee has filed the relevant documents before the authorities below, however, they have not considered the same in its right perspective and proper manner and therefore the same may be considered by this Hon'ble Court. Ld. Counsel further submitted that if the case will be remanded to any of the authorities below, then it will take long time for adjudication of the issue which is small, as the assessment order was passed on 29.12.2017, whereas the impugned order was passed after a gap of 7 yrs on 12.03.2024. The Ld. Counsel further prayed that in case, still the case is to be remanded to the file of any of the authorities below, then the Hon'ble Court may fix time limit for decision of the case.

**6.** The Ld. D.R. refuted the claim of the Assessee.

**7.** Heard the parties and perused the material available on record. We observe that both the authorities below doubted the transactions under consideration mainly on the reason that the Assessee has failed to reconcile between ledger accounts the parties, as there was a difference between the amount shown as purchases by the Assessee and in the reply filed by the seller. The Assessee before us filed various documents vis-a-vis submissions, ledger accounts of the Assessee and the seller M/s. Manoshi Enterprises. In our considered opinion, the documents filed by the Assessee are essential for the proper and just decision of the case and therefore for just decision of the case and substantial justice, we are inclined to remand the instant case to the file of the Jurisdictional AO for decision afresh, suffice to say by affording reasonable opportunity to the Assessee to substantiate its claim. Consequently, the orders passed by the authorities below are set aside and case is remanded to the file of the jurisdictional AO in the aforesaid terms for decision afresh, within 02 months from the date of receipt of this order, as prayed for by the Assessee.

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

**Order pronounced in the open court on 17.10.2024.**

**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.