

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

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

**ITA No.4399/M/2024
Assessment Year: 2017-18**

M/s. Tulja Bhavani Dhartidhan Private Limited, 134 Birla Mansion, Nagin Das Master Road Fort, Mumbai - 400023 PAN: AABCT9661Q	Vs.	Income Tax Officer Ward 2(3)(3) Room No.555, 5 th Floor, Aayakar Bhavan, Maharishi Karve Road Mumbai - 400020
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Harshal Ajmera, A.R.
Revenue by : Shri Praveen Shrivastava, Sr. AR

Date of Hearing : 08 . 10 . 2024
Date of Pronouncement : 22 . 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 01.07.2024, 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 additions of Rs.50,54,728/- on account of unexplained cash credit u/s 68 of the Act and Rs.17,18,200/- on account of unexplained expenditure u/s 69 of the Act, were made by the Assessing Officer (AO) vide assessment order dated 16.12.2019 u/s 143(3) of the Act. The Assessee, being aggrieved, challenged the aforesaid additions before the Ld. Commissioner, however, despite of

affording various opportunities, preferred not to join the proceedings and also not filed any details or documents and therefore in the constrained circumstances, the Ld. Commissioner decided the appeal of the Assessee as ex-parte and by dismissing the same affirmed the aforesaid additions.

3. The Assessee, being aggrieved, is in appeal before us.

4. Having heard the parties and giving thoughtful considerations to the peculiar facts and circumstances of the case, we observe that during the appellate proceedings before the Ld. Commissioner, first notice was issued for the date of hearing on 26.12.2020 and thereafter subsequent notices were issued after March 2024 only. The Assessee before us claimed that due to miscommunication it failed to appear before the Ld. Commissioner, however, now undertakes to appear and file the relevant documents/details in case, the opportunity is granted to the Assessee by remanding the case to the file of the Ld. Commissioner. On the contrary the Ld. D.R. refuted the claim of the Assessee.

4.1 Considering the peculiar facts and circumstances of the case, as the Assessee remained un-represented and in the absence of relevant documents/reply the Ld. Commissioner was unable to decide the issues involved in its right perspective and proper manner and therefore for the just decision of the case and substantial justice, we are inclined to set aside the impugned order and consequently remanding the instant case to the file of the Ld. Commissioner for decision afresh, suffice to say by affording reasonable opportunity of bearing heard to the Assessee. We clarify that in case of subsequent default, the Assessee shall not be entitled for any leniency.

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

Order pronounced in the open court on 22.10.2024.

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.