

**IN THE INCOME-TAX APPELLATE TRIBUNAL “B” BENCH,  
MUMBAI**

**BEFORE SMT BEENA PILLAI, JUDICIAL MEMBER  
&  
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 3661/MUM/2024  
(A.Y. 2013-14)**

Nipa Chetan Shah 5, 39, Sai Niwas, Khotachi Wadi, Girgaum, Mumbai-400004	v/s. बनाम	ITO 19(2)(4) Piramal Chambers Mumbai-400012
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AQQPS8446Q</b>		
<b>Appellant/अपीलार्थी</b>	..	<b>Respondent/प्रतिवादी</b>

Appellant by :	Shri Vipul Joshi & Ms. Dinkel Haria
Respondent by :	Shri Paresh Deshpande

Date of Hearing	08.10.2024
Date of Pronouncement	30.10.2024

**आदेश / ORDER**

**PER RENU JAUHRI [A.M.] :-**

This appeal is filed by the assessee against the order of the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] dated 16.05.2024 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for Assessment Year [A.Y.] 2013-14.

2. The assessee has raised following grounds of appeal:

***“1. THE ORDER BAD, ILLEGAL AND WITHOUT JURISDICTION***

***1.1 In the facts and the circumstances of the case, and in law, the appellate order framed by the Commissioner of Income tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, [‘Ld. CIT (A)’] is bad and illegal, as the same is***

*framed in breach of the statutory provisions and the scheme and as otherwise also is not in accordance with the law.*

*1.2 Without prejudice to the generality of the above, the appellate order so passed is bad, illegal and void as the same is utterly cryptic and perverse.*

## **2 NATURAL JUSTICE**

*2.1 The Ld. CIT (A) erred in passing the appellate order in breach of the principles of Natural Justice.*

*2.2 While doing so, the Ld. CIT (A) failed to appreciate that:*

- (i) The Appellant was not given fair, reasonable and proper opportunity of being heard; and*
- (ii) In any case, the Appellant was prevented by reasonable causes beyond its control to make effective and proper representation.*

## **WITHOUT PREJUDICE TO THE ABOVE**

### **3. REASSESSMENT**

*3.1 The Ld. CIT (A) erred in confirming the action of the A.O. in initiating the reassessment proceeding and framing the assessment of the Appellant by invoking the provisions of section 147 r.w.s. 148 & 148A of the Act.*

*3.2 While doing so, the Ld. CIT (A) failed to appreciate that:*

- (i) The case of the Appellant did not fall within the parameters laid down by section 147 r.w.s. 148 r.w.s. 148A, 149 & 151 of the Act; and*
- (ii) The necessary preconditions for initiating the reassessment proceeding and completion thereof were not satisfied.*

*3.3 It is submitted that in the facts and the circumstances of the case, and in law, the reassessment so framed is bad, illegal, void and without jurisdiction.*

## **WITHOUT FURTHER PREJUDICE TO THE ABOVE**

### **4. ON MERITS**

#### **ADDITION OF RS. 1,94,37,405/- AS ALLEGED UNEXPLAINED CASH CREDIT UNDER SECTION 68 OF THE ACT**

*4.1 The Ld. CIT (A) erred in confirming the action of the A.O. in making addition of Rs. 1,94,37,405/-, treating the purchase consideration of the shares purchased by the Appellant in two companies, as alleged unexplained cash credit u/s. 68 of the Act.*

*4.2 While doing so, the Ld. CIT (A) erred in:*

- (i) Basing his action on wrong/ erroneous facts.*
- (ii) Basing his action only on surmises, suspicion and conjecture;*
- (iii) Taking into account irrelevant and extraneous considerations; and*
- (iv) Ignoring relevant material and considerations as submitted by the Appellant.*

*3.3 It is submitted that in the facts and the circumstances of the case, and in law, no such addition was called for.*



*3.4 Without prejudice to the above, assuming - but not admitting - that some addition was called for, it is submitted that the computation of the addition made by the A.O. is arbitrary, excessive and not in accordance with the law.”*

3. The brief facts of the case are that the return declaring income of Rs. 2,39,370/- was filed by the assessee on 29.03.2015. Subsequently, in view of the receipt of information regarding use of BSE listed penny stock for generating bogus capital gain by the assessee, the case was reopened and the assessment was finalized u/s 147 r.w.s. 144B of the Act after making an addition of Rs. 1,94,37,405/- u/s 68 of the Act on account of bogus capital gains.

4. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A). However, the appeal was dismissed ex-parte on account of fact that the assessee had not complied to the notices issued by the Ld. CIT(A).

5. Before us, the assessee has taken various grounds of appeal including that the assessee was not given a fair and reasonable opportunity of being heard. In this regard, an affidavit has been filed by the assessee on 22.08.2024 submitting that no notices were received on the e-mail Id mentioned in the return or on the portal. The assessee has stated that her email ID in the various income tax returns filed by her has been mentioned as [cpshah750@gmail.com](mailto:cpshah750@gmail.com) or [nipacshah17@gmail.com](mailto:nipacshah17@gmail.com). However, the notices were sent on the e-mail ID of [chetanpshah15@gmail.com](mailto:chetanpshah15@gmail.com) which was not the correct email Id.

6. We have heard the rival submissions. In view of the above facts, no proper opportunity was given to the assessee by the Ld. CIT(A), as the notices were sent on wrong email ID. We, therefore, deem it appropriate to restore the matter to



the Ld. CIT(A) for fresh adjudication. Needless to add that due opportunity should be given to the assessee by sending notices on correct email Id provided by her.

7. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on .30.10.2024.

**Sd/-**

**BEENA PILLAI**

(न्यायिक सदस्य/JUDICIAL MEMBER)

**Sd/-**

**RENU JAUHRI**

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 30.10.2024

अनिकेत सिंह राजपूत/ स्टेनो

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,  
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//  
आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)**  
**आयकर अपीलीय अधिकरण/ ITAT, Bench,**  
**Mumbai.**

