

IN THE INCOME TAX APPELLATE TRIBUNAL  
Mumbai "SMC" Bench, Mumbai.

Before Shri Narender Kumar Choudhry (JM)  
& Shri Omkareshwar Chidara (AM)

I.T.A. No. 978/Mum/2024 (A.Y. 2017-18)

Niruben Arvindbhai Bagadia M/s. Bagadia Harichand Zunzabhai, Limda Chowk Botad, Gujarat-364 710.  PAN : AGAPB5838M (Appellant)	Vs.	ITO-3(1)(3) Mumbai.  (Respondent)
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Assessee by	Shri Prakeek Jain
Department by	Shri R.R. Makwana
Date of Hearing	20.08.2024
Date of Pronouncement	23.10.2024

O R D E R

Per Omkareshwar Chidara (AM) :-

In the above cited appeal the learned Assessing Officer (AO for short) has mentioned that the appellant traded in the penny scrip of M/s. Ejecta Marketing Ltd. and the amount of trading value involved is Rs. 51,41,648/- for A.Y. 2017-18 and based on this information, assessment was reopened by issuing notice u/s. 148 of the Income Tax Act (Act for short). From the assessment order, it is observed that the notice u/s. 143(2) and 142(1) were issued to the appellant calling for the information about the details of shares purchased/sold, LTCG/STCG arrived and Demat account details etc. during the year under consideration. The appellant has not furnished any information nor offered any explanation about the purchase of penny stock of Ejecta Marketing Ltd./GBFL. But the Ld. AO has specifically mentioned in the assessment order that information was received on "Insight Portal" of the department that the appellant has entered into significant transaction relating to above scrip. Since the appellant has not furnished any

information despite issuing notices, the Ld. AO made addition of Rs. 25,03,887/- towards the investment in GBFL shares and profit earned on trading of GBFL shares to the extent of Rs. 1,33,893/-.

2. The appellant filed an appeal before the learned Commissioner of Income Tax (Appeals) [Ld. CIT(A) for short] stating that he has not invested any amount in the GBFL at any point of time whereas maximum amount used for trading is Rs. 4,88,000/-. The appellant filed this appeal before the Ld. CIT(A) with delay of 98 days. The Ld. CIT(A) was convinced with the reasoning given by the appellant for delay relating to bad health and old age, and hence delay was condoned. The Ld. CIT(A) has mentioned that three opportunities were given to the appellant to file written submission relating to the addition made by the Ld. AO. But there is no compliance to any of these notices and hence appeal of the appellant was dismissed.

3. Aggrieved by the orders of Ld. AO and the Ld. CIT(A), further appeal was filed by the appellant before the ITAT, Mumbai raising ground that the issue of notice u/s. 148 of the Act is invalid and time barred. The appellant has also raised another ground stating that he has never invested total amount of Rs. 25 lakhs at any given point of time within the year. Because of old age, the appellant pleaded that one more opportunity may be given to him to provide all the documents to prove his credentials.

4. Ld DR has opposed the request of Ld. AR of the appellant for another opportunity because the appellant did not respond to the notices issued by the Ld. AO as well as the Ld. CIT(A) nor any written submissions were filed before the first appellate authority, addition made by the Ld. AO should be upheld.

5. Ld AR of the appellant has pleaded that one more opportunity may be given to furnish all the material/documents to prove that he has never invested such huge amount in shares.

6. After hearing both sides, it is decided to give one more opportunity to the appellant because of the old age. But from the file, it is observed that the appellant has not responded to several notices issued by the Ld. AO as well as the Ld. CIT(A) nor filed any written submissions for the questionnaire issued by the Ld. AO. In view of the same, a cost of Rs. 11,000/- is levied on the appellant which should be paid to the Income Tax Department within one month of the receipt of this order. The issue is remitted back to the file of the Ld. CIT(A) who is directed to give an effective opportunity to the appellant to produce all the documents to prove that the addition made by the Ld. AO is incorrect. After receiving all the relevant material from the appellant, a fresh order may be passed by the Ld. CIT(A) as per law. The appellant is directed to cooperate with the Ld. CIT(A) and furnish all his documents without further delay. This direction is given to the appellant because he was not responding to the notices issued by the Department earlier.

7. The appeal of the appellant is allowed for statistical purposes.

Order pronounced in the open court on 23<sup>rd</sup> October, 2024.

Sd/-  
(Narender Kumar Choudhry)  
Judicial Member

Sd/-  
(Omkareshwar Chidara)  
Accountant Member

Mumbai : 23.10.2024

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai.
6. Guard File.

*Niruben Arvindbhai Bagadia*

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai

//True Copy//

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