

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

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

**ITA No.1679/M/2024
Assessment Year: 2012-13**

Shri Mitesh Ramesh Shah, 1604, 16 th Floor, W.A.P. 370, A Wing, Shreepati Jewels, Pimpalwadi, Taty Ghar Pure Marg, Girgaon Maharashtra- 400 004 PAN: BNFPS6052R	Vs.	Income Tax Officer Ward 19(3)(4), Piramal Chamber, Mumbai Maharashtra
(Appellant)		(Respondent)

Present for:

Assessee by : Sh. Nikhil Joshi, Ld. A.R.

Revenue by : Sh. Srinivas P., Ld. D.R

Date of Hearing : 28.11.2024

Date of Pronouncement : 28.11.2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 28.02.2024, 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. 2012-13.

2. In this case, the Assessing Officer (AO) vide assessment order dated 28.12.2017 u/s 143(3) r.w.s. 147 of the Act has made the additions of Rs.8,62,244/- and Rs.25,867/- respectively u/s 68 & 69C of the Act.

3. The Assessee, being aggrieved, challenged the said additions before the Ld. Addl./Joint Commissioner. However, in spite of affording reasonable opportunity of being heard, the Assessee filed no substantive document before the Ld. Addl./Joint Commissioner, which resulted into dismissal of the appeal of the Assessee.

3. The Assessee, being aggrieved, is in appeal before this Court. The Assessee before this court has submitted that it has not received the notices issued by the Ld. Addl./Joint Commissioner. Even otherwise from the impugned order, it is nowhere appearing, as to whether any notice for hearing was ever issued to the Assessee or not.

4. The Ld. D.R. did not refute the aforesaid facts, however, relied on the order passed by the Ld. Addl./Joint Commissioner.

5. Heard the parties and perused the material available on record. Considering the facts and circumstances, as demonstrated by the Assessee and claim lodged by the Assessee as genuine and plausible, this Court is inclined to set aside the impugned order and remand the instant case to the file of the Ld. Addl./Joint Commissioner for decision afresh, suffice to say by affording reasonable opportunity of being heard to the Assessee. **Thus**, the case is accordingly remanded to the file of the Ld. Addl./Joint Commissioner.

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

Order pronounced in the open court on 28.11.2024.

**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.