

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER**

**ITA Nos. 5147, 5148 & 5149/M/2024  
Assessment Years: 2017-18, 2018-19 & 2019-20**

<b>Shri Sultan Abdul Lalani,</b> 54-A, Yuvan Apartment, Hill Road, Bandra (West), Mumbai – 400 050 <b>PAN: ABAPL7388M</b>	Vs.	<b>The Income Tax Officer,</b> Ward 23(3)(1) Assessment Unit, National Faceless Assessment Centre (NFAC), Piramal Chambers, Mumbai – 400 012
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri M.S. Mathuria, Ld. A.R.

Revenue by : Shri Srinivas P., Sr. A.R

Date of Hearing : 26.11.2024

Date of Pronouncement : 26.11.2024

**O R D E R**

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

These appeals have been preferred by the Assessee against the orders even dated 06.08.2024, impugned herein, passed by the National Faceless Appeal Centre/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, 2018-19 & 2019-20.

**2.** All the appeals are based on the almost identical facts, except variation in amounts and having involved identical issues therefore for the sake of brevity, the same were heard together and are being disposed of by this composite order by taking into consideration the facts and circumstances and issues involved in ITA No.5147/M/2024 as a lead case and result of the same would be applicable mutatis mutandis to all the three appeals under consideration.

**3.** Coming to the instant case, the Assessing Officer (AO) vide assessment order dated 30.05.2023 u/s 147 of the Act has made the addition of Rs.31,88,219/- on account of bogus loan entries u/s 68 of the Act.

**4.** The Assessee, being aggrieved, challenged the said addition before the Ld. Commissioner, who though recorded in the impugned order that the Assessee has opted for presumptive taxation scheme u/s 44AD of the Act, which exempts the Assessee from maintaining detailed books of account, however, by observing *“that the confirmation letter did not address the discrepancies adequately and the bank statements and the ledger accounts filed by the Assessee in support of its claim also did not clearly distinguish between loans and sales transactions, further, the documents provided by the Assessee did not sufficiently refute the AO’s findings based on the income tax portal and Mr. Mehta’s statement which indicates an amount involved as bogus loan entry and not a genuine sale transaction”* ultimately affirmed the addition by dismissing the appeal of the Assessee.

**5.** The Assessee being aggrieved is in appeal before this Court and has submitted that it has provided the relevant documents in order to substantiate its claim, however, the Ld. Commissioner without affording any opportunity to explain the documents and case, presumed contrary and therefore the order passed by the Ld. Commissioner is liable to be set aside.

**6.** On the contrary the Ld. DR supported the impugned order.

**7.** Having heard the parties and perused the material available on record and given thoughtful consideration to the orders passed by the authorities below, it is observed though the Ld. Commissioner recorded in the impugned order *that the Assessee has submitted bank statement and other relevant documents such as ledger accounts etc. in support of its claim,* however, the Ld. Commissioner affirmed the addition mainly on the reason *"that the documents provided by the Assessee are insufficient and did not address the discrepancies adequately and the confirmation letter needed to be backed up with more details of the account transactions including specification about the goods sold, delivery dates and permission terms etc. and lack of such detail raised the doubt about the Assessee's claim. Further, the documents submitted by the Assessee did not clearly distinguish between the loans and sale consideration".*

It appears from the impugned order that after receiving the reply and documents from the Assessee, the Ld. Commissioner has not given any opportunity to clarify the issues and documents and also to demonstrate the case properly and therefore considering the peculiar facts as the issue involved in the case remained to be adjudicated in the right perspective proper manner in the absence of proper explanation which the Assessee has failed to provide, for the reason that the opportunity was not given by the Ld. Commissioner, hence, considering the peculiar facts and circumstances of the case in totality and for just decision of the case and substantial justice, this Court deem it appropriate to set aside the impugned order and consequently remand the case to the file of the Ld. Commissioner for decision afresh, suffice to say by affording reasonable opportunity of being heard to the Assessee. Thus, the case is remanded accordingly.

7. Resultantly, the appeal i.e. ITA No.5147/2024 under consideration is allowed for statistical purposes.

8. In the result, in view of judgment in ITA No.5147/2024, all the appeals under consideration are allowed for statistical purposes.

**Order pronounced in the open court on 26.11.2024.**

**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.