

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER  
AND  
MS. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No.5760/M/2024  
Assessment Year: 2010-11**

<b>Nisa Allied Services Private Limited</b> 509, Magnum Tower, Cross Road, Lokhandwala, Andheri West PAN: AACCN 9875 F	Vs.	<b>ITO Ward 10(3)(1)</b> Aayakar Bhavan, Maharishi Karve Road, Mumbai Maharashtra - 400020
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Vimal Punmiya, Ld. A.R.  
Revenue by : Ms. Monika H. Pande, Sr. DR

Date of Hearing : 17.12.2024  
Date of Pronouncement : 17.12.2024

**O R D E R**

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

This appeal has been preferred by the Assessee against the order dated 20.08.2024, 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. 2010-11.

**2.** In the instant case, the assessee has sought for adjournment however, as the impugned order is an ex-parte and therefore, we deem it appropriate to dismiss the adjournment application and to proceed with the case.

**3.** Coming to the merits of the case, we observe that vide order dated 31.12.2017 u/s 143(3) r.w.s 147 of the Act, the AO has made the addition of Rs.3,55,00,000/- u/s 68 of the Act. The assessee challenged the said addition before the Ld. Commissioner, however, in spite of affording four opportunities, the assessee made no compliance and therefore, in the constrained circumstances, Ld. Commissioner decided the appeal filed by the assessee as ex-parte and ultimately dismissed the same by affirming the action of the AO in making the addition of Rs.3,55,00,000/- as un-explained credit u/s 68 of the Act.

**4.** We have given thoughtful consideration to the peculiar circumstances of the case, as the assessee has failed to demonstrate any substantive or plausible reason for non-compliance before the Ld. Commissioner and therefore, the assessee does not deserve any leniency. However, as the Ld. Commissioner in absence of relevant documents and submissions which the assessee has failed to file, was constrained to decide the appeal of the assessee as ex-parte but not in the right prospective of the issues involved and therefore for the just and proper decision of the case and substantial justice, we are inclined to set aside the impugned order and remand the case to the file of the Ld. Commissioner for decision fresh, however, with a cost of Rs.11,000/- to be deposited by the assessee in the revenue department under "other heads" without claiming any deduction/disallowance of the same, within 30 days of this order. **Thus, the case is remanded accordingly.** 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 stands allowed for statistical purposes.

**Order pronounced in the open court on 17.12.2024.**

**Sd/-  
(RENU JAUHRI)  
ACCOUNTANT MEMBER**

**Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER**

\* Patel, 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.