

2. The grounds of appeal are as under:

- (i) *The Learned CIT(A) erred in law and in facts in passing an ex-parte order. Your appellant submits that it was prevented by sufficient reasons and proper opportunity of being heard was not granted.*
- (ii) *The learned CIT(A) erred in confirming the addition of Rs. 61,86,399/- on account of adhoc disallowance @15% out of Custom Clearing Charges to the income of the Appellant. The Appellant submits that entire expense is incurred and solely for the purpose of business and ought to be deleted in full.*
- (iii) *The learned CIT(A) erred in confirming the addition of Rs. 1,18,13,353/- on account of disallowance out of transport expenses. Your appellant submits that transport expenses is incurred and solely for the business and ought to be deleted in full.*
- (iv) *The learned CIT(A) erred in facts and in law in confirming the addition of Rs. 72,100/- made by the learned Assessing Officer on account of Penalty Charges. Your appellant submits that penalty charges are not for infarction of law addition ought to be deleted in full.*
- (v) *The above grounds of appeal are without prejudice to one another and the appellant craves leave to add, alter, amend, delete or modify any of the above grounds of appeal.*

3. This appeal appears to be second round of appeal before the Tribunal. Perusal of the appellate order reveals that the appellant went to ITAT against the order of CIT(Appeals)-36, Mumbai dated 22/08/2016 for AY 2010-11, the CIT(A)-Mumbai passed the order and dismissed the appeal



of the appellant. The ITAT, Mumbai 'D'-Bench vide order dated 05/12/2018 in ITA No. 569/Mum/2017 pertaining to AY 2010-11 restore the entire dispute issue to adjudicate afresh and partly allowed the appeal for statistical purpose.

4. Accordingly, the appeal of the appellant was revived and fresh notices u/s 250 was issued to the appellant on 16/11/2023, 21/11/2023, 08/12/2023 and 28/12/2023 to make written submission, documentary evidence/details, if any, on or before 01/12/2023 06/12/2023, 22/12/2023 and 12/01/2024. In compliance to the said notice, the appellant has not made any submissions with regard to the grounds of appeal raised, hence the issues raised in grounds, of appeal are decided on merits and material available on records.

4.1 As directed by the ITAT, the ld.CIT(A) has observed that more than due opportunity was provided to the appellant. However, the appellant does not seem interested in taking such opportunity to explain his case.

<i>S. No.</i>	<i>Notice Date</i>	<i>Compliance Date</i>	<i>Remarks</i>
1	16/11/2023	01/12/2023	No response
2	21/11/2023	06/12/2023	No response
3	08/12/2023	22/12/2023	No response
4	28/12/2023	12/01/2024	No response



4.2 Therefore, the appeal filed by the appellant was once again dismissed. The findings of the CIT(Appeals)-36 vide order dated 22/08/2016 already mentioned above were re-iterated and accordingly the assessment by the AO is upheld and the appeal is dismissed.

5. We have carefully considered the case. There was no compliance when the case was called for hearing by this Bench. The Id.SR.DR supported the action of lower authorities. The Id. CIT(A) has claimed that despite notice issued for allowing opportunity of hearing to the assessee during appellate proceedings, there was no compliance. None appeared before him to support the grounds of appeal. No written submission was made either. It was further stated by him that the assessee did not comply with the notices issued by the AO as well. The Id. CIT(A) has also held that there was no substantive compliance from the assessee to explain his case even before him. Although the assessee did not appear before us also, it is in the fitness of things to allow a last opportunity of hearing to the assessee to explain the matter before lower authorities in the interests of justice and fair play.

6. During the hearing, the Bench proposed for restoration of the matter to the Id.CIT(A) for a de novo consideration. The Revenue did not vehemently oppose this plea. Thus, in the interest of justice, we



deemed it appropriate to allow the appeal for statistical purposes, emphasizing the need for a thorough and compliant adjudication process. The Id. CIT(A) shall give proper and adequate opportunity of being heard to the assessee in accordance with principles of natural justice in the set aside remand proceedings for de novo adjudication of the appeal of the assessee filed before him. Needless to state, the assessee will comply with notices and any details sought by the appellate authority without fail, as it will not be allowed any further opportunity of hearing in case of any further non-compliance.

7. **In the result, the above appeal is allowed for statistical purposes.**

Order pronounced in the open court on 26/12/2024.

Sd/-

ANIKESH BANERJEE

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकार सदस्य / ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 31.12.2024

Lubhna Shaikh / Steno

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.

