

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "D" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)  
AND  
SHRI SUNIL KUMAR SINGH (JUDICIAL MEMBER)**

**ITA No. 4919/MUM/2024  
Assessment Year: 2017-18**

Dharmesh Jitendra Sheth,  
5<sup>th</sup> floor, Tilak Mandir, 406/408,  
V.P. Road, Congress House, Girgaon,  
Mumbai-400 004.

**PAN NO. AUAPS 7658 G  
Appellant**

Income Tax Officer Assessment Unit,  
Ward 19(1)(1),  
Piramal Chamber,  
Mumbai-400012.

**Vs.**

**Respondent**

Assessee by : Mr. Kirit Sanghvi  
Revenue by : Mr. R.R. Makwana, Sr. DR

Date of Hearing : 19/12/2024  
Date of pronouncement : 30/12/2024

**ORDER**

**PER OM PRAKASH KANT, AM**

This appeal by the assessee is directed against order dated 23.07.2024 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)’] for assessment year 2017-18, raising following grounds:

**GROUND OF APPEAL:**



1. The learned CIT(A) erred in confirming the assessment order passed by AO by issuing notice dated 22nd June,2021 under s.148 read with s.147 of the Act without realizing that the jurisdiction for issuing notice under s.148 had been moved to Faceless Assessment/Appeal under s.151A .

**Relief claimed:** The impugned assessment declared null and void.

2. The learned CIT(A) erred on facts and in law in confirming the addition of Rs.50,36,684/- by passing the impugned Order dated 26th July,2024.

**Relief claimed:** The impugned order be declared null and void.

3. The learned CIT(A) erred in confirming application of s.69A of the Act to the facts of the case.

**Relief claimed:** The impugned order be declared null and void.

4. The learned CIT(A) erred on facts and in law in confirming application of s.115BBE of the Act.

5. Without prejudice to Ground No.4, the learned CIT(A) erred on facts and in law in proposing penalty under s.271AAC of the Act

2. We have heard rival submissions of the parties and perused the relevant materials on record. In the grounds raised, the assessee has challenged validity of the jurisdiction in issue of notice u/s 148 of the Income-tax Act, 1961 (in short 'the Act') as well as disputed the addition of Rs.50,30,684/- on merit in terms of section 69A of the Act. As far as ground challenging validity of the reassessment is concerned, same was not pressed before us and therefore, same is dismissed as infructuous. As far as ground on merit of the addition of Rs.50,30,684/- is concerned, the Ld. counsel for the assessee has submitted that assessee could not comply to various notices issued by the Ld. CIT(A) for the reasons that notices could not be served upon the assessee. The Ld. counsel for the assessee given an undertaking on behalf of the assessee that if matter is restored back to the lower authorities, the assessee shall



file all the information and produce the documents which would be called for and co-operate with the appellate proceedings/assessment proceedings. Since the Ld. CIT(A) has upheld the finding of the Assessing Officer in absence of any documentary evidence filed on behalf of the assessee, we feel it appropriate to set aside the finding of the Ld. CIT(A) and restore the matter back to him for deciding the issue in dispute of disallowance of Rs.50,36,685/- in terms of section 69A of the Act after taking into consideration submission and explanation of the assessee. Thus, the grounds of appeal of the assessee related to the merit of the addition are accordingly allowed for statistical purposes.

3. In the result, the appeal of the assessee is partly allowed for statistical purposes.

**Order pronounced in the open Court on 30/12/2024.**

Sd/-  
**(SUNIL KUMAR SINGH)**  
**JUDICIAL MEMBER**

Sd/-  
**(OM PRAKASH KANT)**  
**ACCOUNTANT MEMBER**

Mumbai;  
Dated: 30/12/2024  
Rahul Sharma, Sr. P.S.

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,  
(Assistant Registrar)  
**ITAT, Mumbai**