

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

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

**ITA No.1405/M/2024  
Assessment Year: 2013-14**

<b>M/s. Avinash Tantia HUF,</b> 3 <sup>rd</sup> Floor, Bharat Insurance Bldg. 15 A Horniman Circle Fort Maharashtra – 400 023 <b>PAN: AAIHA0464Q</b> (Appellant)	Vs.	<b>Income Tax Officer- 17(1)(1),</b> Kautilya Bhavan, Bandra Kurla Complex, Bandra East, Maharashtra-400 051 (Respondent)
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**Present for:**

Assessee by : Shri Haresh P. Shah, Ld. A.R.  
Revenue by : Shri Gotimukul Santosh Kumar, Sr. D.R

Date of Hearing : 09.01.2025  
Date of Pronouncement : 09.01.2025

**O R D E R**

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

This appeal has been preferred by the Assessee against the order dated 30.01.2024, 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. 2013-14

**2.** In the instant case, the Assessee had filed its return of income on 15.10.2014 declaring its total income of Rs.7,52,650/- which resulted into passing the assessment order dated 28.03.2016 u/s 143(3) of the Act whereby the Assessing Officer (AO) made the addition amounting to Rs.15,71,055/- on account of alleged bogus accommodation entries, which was claimed by the Assessee as cost of jewellery.

**3.** The Assessee, being aggrieved, challenged the said addition before the Ld. Commissioner. The Ld. Counsel Shri Haresh P. Shah has demonstrated that the Assessee vide submissions dated 03.05.2023 not only submitted various documents which were relevant for adjudication of the issues involved, however also filed one application under rule 46A of the Income Tax Rules, 1962 (in short "the Rules") for production of additional evidence. Though the Ld. Commissioner in para IV of the impugned order noted the facts qua filing of the documents as well as the contention of the Assessee that evidence submitted herewith against addition is relevant for decision of the grounds of appeal and which will go to the root of the issue for adjudication. The Ld. Counsel further submitted that the Assessee could not get sufficient time, as the AO, being time barring of the case, acted in seven days itself and passed the assessment order in haste, which is against the principle of natural justice. The Ld. Commissioner also in the conclusion wrongly mentioned that the Assessee had failed to furnish the relevant documents before the AO and in the appeal also. And therefore, it is humbly requested that the

additional evidence should be admitted/considered to give substantial justice to the Assessee on merits rather than small lapse/technical ground as non-admission of evidence will result into denial of justice to the Assessee.

**4.** The Ld. D.R. supported the orders passed by the authorities below.

**5.** Heard the parties and perused the material available on record. As observed above, the Assessee though had filed appropriate application u/r 46A of the Rules as well as the relevant documents for proper and just decision of the case, however, may be due to inadvertent mistake or oversight, the same remained to be considered by the Ld. Commissioner. Hence, this Court is inclined to remand this case to the file of the Ld. Commissioner for decision afresh however considering the contention raised by the Ld. Counsel of the Assessee, which is not refuted by the Ld. DR that the wealth tax order dated 29.03.2016 has also been passed by the same AO, therefore it would be appropriate to remand the case to the file of the Jurisdictional AO, as the same will curtail the multiplicity of the litigations. Hence considering the particular facts and circumstances, the case is remanded for decision afresh, to the file of the AO with a direction to consider the relevant documents filed by the Assessee before the Ld. Commissioner, which the Assessee agreed to file again before the AO.

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

**Order pronounced in the open court on 09.01.2025.**

**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.