

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

**SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 384/MUM/2025
(Assessment Year: 2016-2017)**

Madhur Textile Industries LLP

Gut No.219, Village Vadawadi, Talathi Saza Met,
Thane – 421312.Maharashtra.

[PAN:ABBFM9540K]

..... **Appellant**

Vs

Income Tax Officer Ward 2 , Palghar

Income Tax Office, Bidco Road,
Palghar – 401404, Maharashtra.

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Gaurang Khakhkhar
For the Respondent/Department : Shri R. R. Makwana

Date

Conclusion of hearing : 12.03.2025
Pronouncement of order : 27.03.2025

ORDER

Per Rahul Chaudhary, Judicial Member:

1. The present appeal preferred by the Assessee is directed against the order, dated 21/11/2024, passed by the National Faceless Appeal Centre (NFAC), New Delhi [hereinafter referred to as 'the **CIT(A)**'] under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'] whereby the Ld. CIT(A) had dismissed the appeal against the Assessment Order, dated 27/12/2018, passed under Section 143(3) of the Act for the Assessment Year 2016-2017.
2. The Assessee has raised following grounds of appeal :
 - "1. *The Honorable Commissioner of Income Tax(A) has erred in law as well as on facts in upholding addition on account of unexplained cash credit of Rs.2,08,18,396/- u/s.68 of the Income Tax Act, 1961 being capital contribution of partner.*

2. *The Honorable Commissioner of Income tax (A) has erred in law as well as on facts in upholding disallowance 10% of purchases amounting to Rs.24,79,170/- (Total purchase of Rs.2,47,91,695 * 10%) being treated as non genuine purchase.*
3. *That the order passed by the Ld. CIT u/s.250 of the I.T. Act, 1961 was arbitrary bad in law and unjust."*
3. We have heard both the sides and perused the material on record.
4. The Learned Authorized Representative for the Assessee appearing before us, at the outset requested that the order passed by the CIT(A) be set aside as the Assessee was proceeded ex-parte. It was submitted that while Assessee's registered office is at Thane, Maharashtra, the factory premises were situated at Surat, Gujarat. Due to heavy financial losses in first two years of operations, the Assessee had not been undertaking business operations since 31/03/2017. Hence the factory and registered offices were closed. In the aforesaid facts and circumstances physical notices were not received. Further, due to oversight, the emails were not checked by partners/concerned persons and therefore, the notices sent by the tax authorities were not complied with. In support Learned Authorised Representative of the Assessee also placed on record an affidavit sworn by the acting partner of the Assessee. It was submitted that the Assessee has a good case on merits but since proper representation could not be made before the Assessing Officer the additions were made in respect of capital contribution received and purchases made by the Assessee.
5. Per Contra, the Learned Departmental Representative pointed out that the Assessee had been non-compliance during the assessment as well as appellate proceedings before the CIT(A). In this regard, the Learned Departmental Representative placed reliance upon the orders passed by the authorities below to show that notices were

also sent over email which were also not complied with.

6. We have considered the rival submission and have perused the material on record including the order passed by the Assessing Officer and the CIT(A). We find that the assessment was framed on the Assessee under Section 144 of the Act vide Assessment Order, dated 24/12/2018, since the Assessee failed to comply with the notices issued during the assessment proceedings. In appeal before CIT(A), the Assessee had contended that the notices could not be responded to due to reasons beyond control. However, in appellate proceedings again there was no representation and therefore, the appeal was dismissed. While the Assessee has explained for non-compliance to physical notices sent to the Assessee are concerned, we find that the Assessee and the concerned persons responsible for managing the affairs of the Assessee were not diligent while tracking the assessment proceedings as the notices were also sent on the email address provided by the Assessee. Therefore, we are inclined to grant an opportunity to the Assessee to make proper representation subject to payment of cost of INR.10,000/- to the Prime Minister's National Relief Fund (PMNRF). Accordingly, subject to payment of the aforesaid cost, and keeping in view, the overall facts and circumstances of the present case including the nature of additions made by the Assessing Officer, we deemed it appropriate and in the interest of justice to set-aside the Order, dated 21/11/2024, passed by the CIT(A) and restore the issue raised in appeal before the CIT(A) relating to (a) addition of INR.2,08,18,396/- made under Section 68 of the Act in respect of capital contribution and (b) addition of INR.24,79,170/- made by the Assessing Officer in respect of purchases, back to the file of the Assessing Officer with the directions to decide same afresh on merits as per law. The Assessee is directed to be vigilant and track the assessment proceedings through Income Tax Business Application

Portal. The Assessee is also directed to co-operate in the assessment proceedings and forthwith file details/documents/submission in support of its claims/contentions before the Assessing Officer. It is clarified that the Assessing Officer shall grant reasonable opportunity of being heard to the Assessee. However, in case the Assessee fails to enter appearance and/or fails to file details/documents/submission in response to notice of hearing issued by the Assessing Officer, the Assessing Officer shall be at liberty to decide the issues on merits on the basis of material on record. In terms of the aforesaid, Ground No. 1 to 3 raised by the Assessee are treated as allowed for statistical purposes.

7. In result, the appeal preferred by the Assessee is treated as allowed for statistical purposes.

Order pronounced on 27.03.2025.

Sd/-
(Renu Jauhri)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated :27.03.2025
Milan,LDC

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि ,आयकर अपीलीय अधिकरण ,मुंबई / DR, ITAT,
Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai