

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.632/M/2025
Assessment Year: 2009-10
&
ITA No.633/M/2025
Assessment Year: 2010-11**

Mr. Nemchand J Gala 93 Dadi Sheth, Agiary Lane, Mumbai-400002. PAN: AACPG1554D (Appellant)	Vs.	DCIT-4(3)(1) Aaykar Bhavan, Mumbai - 400020. (Respondent)
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Present for:

Assessee by : Shri Hari S.Raheja, Ld. A.R.
Revenue by : Shri Lyaqat Ali Aafaqui, Ld. D.R.

Date of Hearing : 17.04.2025
Date of Pronouncement : 26.05.2025

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

These appeals have been preferred by the Assessee against the order even dated 30.11.2024, impugned herein, passed by the Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2009-10 and 2010-11.

2. The issues involved in both the appeals are identical and therefore for the sake of brevity the same were heard together and are being disposed of by this composite order and considering ITA No.632/M/2025 as a lead case and result of the same shall apply mutatis mutandis to both the appeals under consideration.

3. In the instant case, vide assessment order dated 17.12.2019 u/s 143(3) r.w.s. 254 of the Act an addition of Rs.48,30,000/- was made by the Assessing Officer (AO).

4. The Assessee, being aggrieved, though challenged the said addition by filing first appeal before the Ld. Commissioner, however, in spite of sending six notices in all for the dates of hearing, the Assessee eventually made no reply and therefore in the constrained circumstances and facts in totality, the Ld. Commissioner affirmed the aforesaid addition by dismissing the appeal of the Assessee.

5. Thus, the Assessee, being aggrieved, is in appeal before this Court and at the outset had submitted that may be by putting any condition one more opportunity may be given to the Assessee to represent his case.

6. On the contrary, the Ld. D.R. refuted the claim of the Assessee.

7. We have heard the parties and perused the material available on record. Admittedly, in the instant case, specifically in the absence of relevant reply/documents, which the Assessee failed to file, the issue involved remained adjudicated in its right perspective or proper manner and therefore considering the peculiar facts and circumstances in totality and the conduct of the Assessee, we are inclined to set aside the impugned order and consequently remanding the case to the file of the Ld. Commissioner for decision afresh, however, subject to deposit of Rs.11,000/- under "other heads" in the Revenue Department and to produce copy of the receipt before the Ld. Commissioner, as agreed to by the Assessee.

8. The Assessee is also directed to comply with the notices to be issued and file the relevant reply/documents, which would be essentially required by the Ld. Commissioner for proper adjudication of the issue(s) involved.

9. Thus, the case is remanded to the file of the Ld. Commissioner accordingly.

10. Resultantly, **ITA no.632/M/2025** is allowed for statistical purposes.

11. In the result, both the appeals under consideration are allowed for statistical purposes, in the same terms.

Order pronounced in the open court on 26.05.2025.

**Sd/-
(PRABHASH SHANKAR)
ACCOUNTANT MEMBER**

**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.