

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “C”, MUMBAI
BEFORE SHIR OM PRAKASH KANT, ACCOUNTANT MEMBER
AND
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER
ITA NO. 2689/MUM/2025 (A.Y: 2010-11)**

Prabhat Plaza Pvt. Ltd.

First floor, Haroon House, 294,
Perin Narmin Street Fort, Mumbai-
400 001

PAN: AADCP4259Q

(Appellant)

ITO-1(2)(3),

Aayakar Bhavan,
Mumbai-400 020

(Respondent)

Assessee Represented by	: Ms. Kavita Nabera, Ld. AR
Department Represented by	: Shri Virabhadra S. Mahajan, Ld. DR
Date of conclusion of Hearing	: 03.06.2025
Date of Pronouncement	: 04.06.2025

ORDER

PER RAJ KUMAR CHAUHAN (J.M.):

1. This appeal is filed by the appellant/assessee against the order of Ld. Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre, Delhi [hereinafter referred to as the “CIT(A)”], passed under section 250 of the Income Tax Act, 1961 [hereinafter referred to as “*the*”



Act”] dated 31.03.2025 for the A.Y. 2010-11 wherein the appeal of the assessee was dismissed on the ground that no response has been filed by the assessee and no written reply has been submitted in respect of addition made and there is no material on record to warrant interference with the order of AO.

2. The brief facts as culled out from the proceedings of lower authorities are that the assessee is a private limited company and engaged in the business of builders, developers and construction and also carrying business of real estate, etc. For the concerned AY 2010-11, the assessee has filed the original return of income on 20.12.2010 showing the total income of Rs. 28,00,189/-. The case was reopened by issuing notice u/s 148 of the Act dated 24.03.2017. The assessee has filed the reply to the statutory notices u/s 143(2) and 142(1) of the Act issued by the revenue authorities. However, the AO did not consider the explanation and the evidence furnished by the assessee and made the addition of Rs. 60 lakhs u/s 68 of the Act assuming unsecured loans as accommodation entries and also disallowed the interest expenses of Rs.1,92,000/- paid to the said alleged bogus unsecured loans.



3. Being aggrieved, the assessee preferred the appeal before Ld. CIT(A) who in turn confirmed the order of AO on the ground that assessee has failed to submit necessary documents as called for despite multiple opportunities given and no documentary or written submissions were filed before the Ld CIT(A), hence dismissed the appeal of the assessee.

4. Aggrieved by the impugned order, the assessee preferred the appeal before us raising the following grounds:-

1. On the facts and circumstances of the Appellant's case and in law the Id. CIT(A) erred in passing an ex-parte order, without providing adequate opportunity of being heard to the assessee.

2. On the facts and circumstances of the Appellant's case and in law the Id. CIT (A) erred in reopening the assessment u/s. 147 by issue of notice u/s. 148 dated 12/03/2017 which is barred by limitation in view of the first proviso to section 147 of Income Tax Act, 1961.

3. On the facts and circumstances of Appellant's case and in law the Id. CIT (A) erred in reopening the assessment u/s 147 by issue of notice dated 12.03.2017 u/s 148 which is merely due to change of opinion and therefore the re-opening is bad in law.

4. On the facts and circumstances of Appellant's case and in law the Id. CIT (A) erred in making addition of Rs. 60,00,000/- u/s 68 of the Act being unsecured loan taken by the appellant, for the reasons stated in the impugned order or otherwise.



5. On the facts and circumstances of Appellant's case and in law the Id. CIT (A) erred in disallowing expense of Rs. 1,92,000/- on account of interest paid on alleged bogus unsecured loans, for the reasons stated in the impugned order or otherwise.

6. The appellant craves leaves to alter, amend, withdraw or substitute any ground or grounds or to add any new ground or grounds of appeal on or before the hearing.

The appellant prays this Hon'ble Tribunal to delete the addition made by the Id. AO, which is confirmed by the Id. CIT (A).

5. We have heard Ld. AR and Ld. DR and examined the record. At the very outset, Ld. AR submitted on behalf of the assessee that the impugned order has been passed ex-parte and the Ld. CIT(A) has failed to offer effective opportunity of hearing to the assessee and has dismissed the appeal in a hurried manner and as such the assessee was prevented from presenting its case before the Ld. CIT(A). Ld. AR further submitted that the notice issued from 18.02.2020 to 23.08.2021 were not received as it was corona period and with respect to notice dated 28.02.2025 and 20.03.2025, the assessee sought adjournment which was declined and impugned order was passed and the appeal was decided on merit without giving opportunity of hearing to the assessee. Hence, the impugned order suffers from illegality and miscarriage of justice and



liable to be set aside. Ld. AR further submitted that the assessee be given proper opportunity of hearing and the matter be restored to the file of Ld. CIT(A) for fresh adjudication of the case.

6. Ld. DR on the other hand supported the judgment of the Ld. CIT(A) and submitted that effective opportunity of hearing was given to the assessee and there is no justification for non-appearance, hence there is no merit in the appeal and same is liable to be dismissed.
7. We have considered the rival submissions and examined the record. On perusal of the finding and decision of Ld. CIT(A), it is noticed that 6 notices dated 05.02.20, 22.01.21, 18.08.21,, 17.02.25, 28.02.25 & 20.03.25 were issued to the assessee u/s 250 of the Act. It is an admitted fact that the first three notices were issued during the corona period and the communication of every office or individual was adversely affected and directly non-functioning. With regard to subsequent 3 notices, it is noted that adjournment was sought on 2 dates which was considered. It is only the last notice dated 20.03.2025 wherein the assessee was asked to file the reply by 26.03.2025, the order states that no reply was filed and there is no evidence on material that the said notice of short period was served upon the assessee, moreover only 5 days time is not sufficient



to file the reply. We are of the considered opinion that Ld. CIT(A) has not given effective opportunity of hearing to the assessee which is against the principle of natural justice. Section 250 sub section 2(a) of "the Act" which provides as under:

“Section 250 (2) The following shall have the right to be heard at the hearing of the appeal: -

a. The appellant, either in person or by an authorised representative;”

8. It is evident from the provision that the hearing to be given is not a formality but an effective hearing is sine qua non for the purpose of upholding the principal of natural justice. It is thus evident from the contents of the impugned order extracted above that no effective opportunity of hearing has been given by the Ld. CIT(A) while passing the impugned order.
9. For these reasons, we are of the considered opinion that matter needs to be restored to the file of the Ld. CIT (A) for giving effective hearing to the assessee who shall present its case before the Ld. CIT(A) within 60 days. The impugned order is accordingly set aside and appeal filed by the assessee is allowed in above terms.



10. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 04.06.2025.

Sd/-

**(OM PRAKASH KANT)
(ACCOUNTANT MEMBER)**

Mumbai / Dated 04.06.2025
Dhananjay, Sr.PS

Sd/-

**(RAJ KUMAR CHAUHAN)
(JUDICIAL MEMBER)**

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

(Asstt. Registrar)
ITAT, Mumbai