

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

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)  
AND  
SHRI ANIKESH BANERJEE (JUDICIAL MEMBER)**

**ITA No. 3294/MUM/2024  
Assessment Year: 2021-22**

Eview Solutions Private Limited  
A1-404 Soni Park Chikuwadi,  
Shimpoli Link Road, Borivali West,  
S.O. Mumbai -400092

**Vs.**

Income Tax Officer Ward  
12(2)(1), Mumbai  
Room No. 145, First Floor,  
Aayakar Bhavan, Maharshi  
Karve Rd. New Marine Lins,  
Churchgate, Mumbai- 400020

**PAN NO. AAFCE 1268 C  
Appellant**

**Respondent**

Assessee by : Mr. Bharat Kumar  
Revenue by : Mr. Hemanshu Joshi, CIT-DR

Date of Hearing : 18/06/2025  
Date of pronouncement : 27/06/2025

**ORDER**

**PER OM PRAKASH KANT, AM**

This appeal has been preferred by the assessee against order dated 23.04.2024 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)’] for assessment year 2021-22, raising following grounds:

*“On the facts and in the circumstances of the case and in law, the Ld. CIT (A) erred in confirming disallowance u/s 37 of Rs. 2,00,64,720/-*



*made by Assessing officer on account of payment made to Pushpa Corporation.*

*2. The assessee craves leave to add, alter or amend existing grounds of appeal on or before the date hearing.”*

2. At the threshold, the learned counsel for the assessee has brought to our notice that there is a delay of two days in the filing of the present appeal. It is submitted that the period of limitation expired on Friday, 21st June 2024; however, the appeal came to be filed on the following Monday, in view of Saturday and Sunday being public holidays.

2.1 We have heard the parties on the issue of condonation of delay. Considering the explanation offered and having regard to the minimal delay of two days, which has been reasonably accounted for, we are satisfied that sufficient cause has been shown. The delay is accordingly condoned, and the appeal is admitted for adjudication on merits.

3. Briefly stated, the assessee filed its return of income on 15.03.2022, declaring total income of ₹13,77,130/-. The return was selected for scrutiny, and in due course, statutory notices under the Income-tax Act, 1961 (hereinafter referred to as "the Act") were issued and duly complied with. In the assessment completed under Section 143(3) of the Act, the Assessing Officer disallowed an amount of ₹2,00,64,720/- claimed as expenditure towards contract work for hiring labour, allegedly paid to Shri Chenaram Punaram



Kumhar, proprietor of M/s. Pushpa Corporation. On appeal, 1d CIT(A) upheld the disallowance. The 1d CIT(A) observed that the assessee merely reiterated its claim without furnishing any independent confirmation of the said expenditure. The 1d CIT(A) relied upon findings of the Assessing Officer, *inter-alia*, that:

- No agreement was filed evidencing the subcontract with M/s. Pushpa Corporation;
- The ledger filed was from the assessee's own books and bore the signature of "Chenaram," without corroboration from the other side;
- In response to notice under Section 133(6) of the Act, Shri Chenaram Punaram Kumhar categorically denied having any business dealings with the assessee and stated he was operating a departmental store;
- The opportunity of cross-examination, as claimed by the assessee, was held to be unwarranted in view of the written reply considered by the Assessing Officer;
- The onus to prove the genuineness of the expenditure was not discharged by the assessee, who relied merely on self-serving documents.

4. Before us, the learned counsel for the assessee placed on record a paper book comprising various documents, including Form No. 26AS of Shri Chenaram Punaram Kumhar, reflecting the



contract payments made by the assessee, which were subjected to tax deduction at source (TDS). The counsel also relied on:

- TDS reconciliation statements issued by the Department;
- GST invoices raised by M/s. Pushpa Corporation and corresponding entries in its GST returns;
- The assessee's own bank statements evidencing payment through banking channels, including a specific instance of ₹8,23,600/- paid on 03.09.2020;
- Copies of GST returns filed by M/s. Pushpa Corporation available on record.

4.1 It was submitted that denial by Shri Chenaram Kumhar, without affording cross-examination and without confronting the documentary evidence filed by the assessee, was not conclusive. The learned counsel argued that the Department might have erroneously contacted a different person with the same name. He further contended that the assessee transacted with one Shri Sanjay Agrawal, an employee of M/s. Pushpa Corporation, and exercised due diligence prior to entering into the contract.

5. On the other hand, the learned Departmental Representative supported the orders passed by the lower authorities.

6. We have heard the rival submissions and perused the material available on record. The disallowance in question pertains to contract charges paid to M/s. Pushpa Corporation, claimed to be a



proprietary concern of Shri Chenaram Punaram Kumhar. The Assessing Officer proceeded to disallow the claim primarily on the basis of the denial by the said individual, obtained in response to a notice under Section 133(6) of the Act, and the assessee's failure to furnish a formal agreement in support of the transaction. However, the assessee has placed on record substantial documentary evidence, including Form No. 26AS of the recipient, GST bills and returns filed by the subcontractor, as well as banking records demonstrating the actual outflow of funds. The claim is further supported by the corresponding deduction of tax at source and the reflection of such transactions in departmental systems. Once the payment is substantiated through bank records, is reflected in the Form No. 26AS issued by the Income-tax Department itself, and corroborated by GST documentation, the denial of the recipient, without further enquiry into whether the person denying the transaction is indeed the correct party, cannot by itself be conclusive to disallow the claim. The documentary trail, being consistent and verifiable, prima facie supports the genuineness of the expenditure.

6.1 In view of the foregoing, we are of the considered opinion that the matter requires a fresh examination by the Assessing Officer. Accordingly, the matter is remanded to the file of the Assessing Officer, who shall duly consider the documentary evidence placed on record by the assessee and undertake verification thereof in



accordance with law. The Assessing Officer shall also afford due opportunity to the assessee, including cross-examination of the person whose denial is relied upon, if such reliance continues to be placed Thereafter, if the facts and circumstances so warrant, the Assessing Officer may, in accordance with law, consider invoking the provisions of Section 145(3) of the Income-tax Act, 1961 for rejection of the assessee's books of account, and proceed to determine the gross profit or net profit rate to be applied to the assessee's turnover. The Assessing Officer shall decide the matter afresh after granting the assessee a reasonable opportunity of being heard.

6.2 In light of the foregoing, the disallowance is set aside, and the matter is restored to the file of the Assessing Officer for fresh adjudication in accordance with law. The grounds of appeal are accordingly allowed for statistical purposes.

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

**Order pronounced in the open Court on 27/06/2025.**

**Sd/-  
(ANIKESH BANERJEE)  
JUDICIAL MEMBER**

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

Mumbai;  
Dated: 27/06/2025  
Disha Raut, Stenographer



**Copy of the Order forwarded to :**

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

BY ORDER,

//True Copy//

(Assistant Registrar)  
**ITAT, Mumbai**