

आयकर अपीलीय न्यायाधिकरण न्यायपीठ, मुंबई।
IN THE INCOME-TAX APPELLATE TRIBUNAL “J(SMC)” BENCH,
MUMBAI
BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SMT. RENU JAUHRI, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 3641/MUM/2025
(निर्धारण वर्ष / Assessment Year: 2010-2011)

Mr. Piyush C. Sampat A-402, Jeevan Bharat CHS, Plot No. 487, 17 th Road, Khar West, Mumbai 400052	v/s. बनाम	Assistant Commissioner of Income Tax Ward 22(2), Mumbai Bandra Kurla Complex, Bandra (E), Mumbai 400051
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAKPS7748H		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

निर्धारिती की ओर से /Assessee by:	Shri Rajiv Khandelwal, CA (Virtually Present)
राजस्व की ओर से /Revenue by:	Shri Asif Karmali (SR DR)

सुनवाई की तारीख / Date of Hearing	17.07.2025
घोषणा की तारीख/Date of Pronouncement	22.08.2025

आदेश / ORDER

PER RENU JAUHRI [A.M.] :-

This appeal is filed by the assessee against the order of the ADDL/JCIT (A)-2 Lucknow [CIT(A)] dated 27.03.2025 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for Assessment Year: 2010-2011.

2. The assessee has raised the following grounds in this appeal.

“1. The Additional Joint Commissioner of Income-tax (Appeals) - 2, Lucknow (hereinafter referred to as the Addl CIT(A)) erred in framing an ex parte order.

The appellant contends that on the facts and in the circumstances of the case and in law, the Addl CIT(A) ought not to have passed an ex parte order.

2. *The Addl CIT(A) erred in not deciding the grounds of appeal on merits.*

The appellant contends that on the facts and in the circumstances of the case and in law, the Addl CIT(A) ought to have decided the following grounds of appeal on merits

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"1. The Assistant Commissioner of Income-tax 22(2), Mumbai (hereinafter referred to as the Assessing Officer) erred in issuing notice under section 148 of the Act.

The appellant contends that on the facts and in the circumstances of the case and in law, the notice issued under section 148 is bad in law and consequently, the assessment needs to be quashed.

2. The Assessing Officer erred in disallowing loss Rs 15.65.402 incurred on various transactions on the ground that the said loss is bogus and fictitiously created through client code modification.

The appellant contends that on the facts and in the circumstances of the case and in law, the Assessing Officer ought not to have disallowed the impugned loss inasmuch as the Assessing Officer, before making the said disallowance, has not appreciated the facts in its entirety, and as such, the disallowance is not warranted.

3. The Assessing Officer erred in making the impugned disallowance and framing the impugned order in violation and utter disregard to the principles of natural Justice.

The appellant contends that on the facts and in the circumstances of the case and in law, the Assessing Officer ought to have followed the principles of natural justice and, having not followed, the impugned assessment order is bad in law and needs to be quashed."

The appellant craves leave to add, to, alter or amend the aforestated grounds of appeal."

3. Brief facts of the case are that the assessee filed its return declaring NIL income for AY 2010-11. Return was processed u/s. 143(1) of the Act. Subsequently, the case was reopened on the basis of information received from the Investigation wing regarding fictitious losses booked by the assessee to the extent of Rs. 15,65,402/- by taking benefit of dubious Client Code Modification (CCM). The assessment was completed by disallowing the loss of Rs. 15,65,402/- claimed by the assessee and the income was assessed at NIL, vide

order u/s. 143(3) r.w.s. 147 vide order dated 26.12.2016. Aggrieved with the order of Ld. AO, the assessee preferred an appeal before Ld. CIT(A). Despite several notices issued by the Ld. CIT(A), the assessee did not make any compliance and therefore, the appeal was dismissed ex-parte on account of non-prosecution. Aggrieved with the order of Ld. CIT(A), the assessee has now filed an appeal before the Tribunal.

4. We have heard the rival submissions and perused the material available before us. Since the order of Ld. CIT(A) is ex-parte, in the interest of justice, we deem it appropriate to restore the same for fresh adjudication by the Ld. CIT(A). Needless to add, adequate opportunity shall be provided to the assessee and the assessee is also directed make requisite compliance before Ld. CIT(A).

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

Order pronounced in the open court on 22.08.2025.

Sd/-

AMIT SHUKLA

(न्यायिक सदस्य/JUDICIAL MEMBER)

Sd/-

RENU JAUHRI

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 22.08.2025

दिव्या रमेश नांदगावकर/ स्टेनो

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

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

**सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,**

**सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलिय अधिकरण/
ITAT, Bench, Mumbai.**