

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

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

I.T.A. No. 4454/Mum/2025 AY 2013-14

I.T.A. No. 4455/Mum/2025 AY 2016-17

Khimji Lakhamshi Shah 17/18 Ronak Bhuvan, Bachani Road, Malad East, Mumbai- 400097 PAN : AAEPS1615B	vs	Income Tax Officer, Ward 30(1)(1) Mumbai Kautilya Bhavan, BKC, Mumbai- 400051
APPELLANT		RESPONDENT

Assessee by : Shri Prayag Jha
Respondent by : Shri Hemanshu Joshi (SR DR)

Date of hearing : 07/01/2026
Date of pronouncement : 13/01/2026

ORDER

Per Bench:

Both the appeal was filed by the same assessee against the order of NFAC Delhi [for brevity, 'Ld.CIT(A)'] order passed under section 250 of the Income-tax Act, 1961 (for brevity, 'the Act) for the Assessment Years 2013-14 & 2016-17 order passed on 28.10.2024 and 29.05.2025 respectively. The impugned orders were emanated from the order of the Learned Income Tax Officer Ward 30(2)(1), Mumbai (for brevity, 'the Ld.AO') order passed u/s143(3) of the Act, date of order

30/03/2016 for assessment year 2013-14 and order passed by the Assessment unit Income-Tax Department (for brevity, the "Ld. AO") order passed under section 147 r.w.s. 144 r.w.s. 144B of the Act, date of order 19.05.2023 for assessment year 2016-17.

2. Both the appeals have same nature of fact and common issue. So both the appeals are taken together and heard together. Both the appeals are adjudicated by a common order.

(1) ITA No.4454/Mum/2025 A.Y.(2013-14)

3. The appeal was filed with a delay for 196 days before the Bench. The assessee filed a notarized affidavit duly executed on 07.07.2025 and reasons of delay is duly explained. The Ld. DR had not made strong objection against the condonation of delay filed by the assessee. Accordingly, we find that there is a sufficient cause for condoning the delay for 196 days. Accordingly, we condone the delay of 196 days and the appeal is taken for adjudication.

4. The Ld. AR argued that the assessee's case was selected in scrutiny under CASS. The assessee was assessed and the addition was made under section 68 of the Act related to unsecured loans amount to Rs.45,24,000/-, advance received amount to Rs.99,40,000/-, agricultural income 4,36,581/- and cash gift amount to Rs.10,00,000/-. The aggrieved assessee filed an appeal before the Ld. CIT(A). The Ld. CIT(A) passed an ex parte order & rejected the appeal of the assessee. In hearing before the bench the Ld. AR stated that the assessee was not able to appear before the Ld. CIT(A) and not even able to file the evidence before 1st

appellate authority. The Ld. AR prayed for restoring the matter to the file of Ld. CIT(A) for further adjudication a fresh.

5. The Ld. DR argued and stood in favor of the order of revenue authorities.

6. We have heard the rival submissions and perused the material available on record. We find that, during the course of assessment proceedings, additions were made under different heads amount to Rs. 1,59,00,581/-. The Ld. AR contended that the submissions made by the assessee were not properly considered or adjudicated by the Ld. AO during the assessment proceedings. It was further noted that, during the appellate proceedings, the assessee was unable to furnish supporting evidence in substantiation of its contentions. In the given facts and circumstances, we are of the considered view that reasonable opportunity of being heard was not afforded to the assessee. Accordingly, in the interest of justice, we deem it appropriate to restore the matter to the file of the Ld. CIT(A) for fresh adjudication de novo, after granting the assessee a reasonable opportunity of hearing during the set-aside appellate proceedings. We clarify that we are not expressing any opinion on the merits of the case, so as not to prejudice or influence the proceedings upon remand. At the same time, the assessee is directed to remain diligent and fully cooperative to facilitate expeditious disposal of the appeal.

Accordingly, the appeal filed by the assessee is allowed for statistical purposes.

ITA No.4455/Mum/2025 A.Y. (2016-17)

7. The present appeal has been filed against the order of the Ld. CIT(A). The assessee had filed the return of income declaring a total income of Rs.2,48,770/-. During the relevant assessment year, the assessee had taken a cash loan of Rs.72,00,000/- through Shri Nilesh Bharani, one of the partners of M/s Evergreen Enterprises. In the course of assessment proceedings, the assessee failed to furnish the requisite details and evidence in support of the said cash loan. Consequently, the Ld. AO completed the assessment ex parte and made an addition of Rs.72,00,000/- to the total income of the assessee. Aggrieved, the assessee preferred an appeal before the Ld. CIT(A). The Ld. CIT(A) also disposed of the appeal ex parte and upheld the addition. Being further aggrieved, the assessee is in appeal before us.

8. The Ld. AR submitted that the assessee remained unheard at both the assessment as well as the first appellate stage. He prayed that the matter be restored to the file of the Ld. AO so as to afford the assessee one more opportunity to place relevant evidence on record in support of its claim.

9. The Ld. DR supported the orders of the revenue authorities. However, no specific objection was raised by the Ld. DR to the prayer made by the Ld. AR for restoration of the matter.

10. We have heard the rival submissions and perused the material available on record. We find that both the assessment as well as the appellate proceedings before the Ld. CIT(A) were completed ex parte qua the assessee, and the cash

loan of Rs.72,00,000/- was added to the total income of the assessee without granting an effective opportunity of being heard. In our considered view, reasonable opportunity was denied to the assessee. Accordingly, in the interest of justice, we deem it appropriate to restore the matter to the file of the Ld. AO for fresh adjudication de novo, after granting the assessee a reasonable and effective opportunity of hearing. We clarify that we are not expressing any opinion on the merits of the case, so as not to prejudice the set-aside assessment proceedings. The assessee is directed to remain diligent and fully cooperative to facilitate expeditious disposal of the proceedings.

Accordingly, the appeal filed by the assessee is allowed for statistical purposes.

11. In the result the both the appeal of the assessee bearing **ITA No.4454 & 4455/Mum/2025** are allowed for statistical purpose.

Order pronounced in the open court on 13th day of January, 2026.

Sd/-

(PRABHASH SHANKAR)
ACCOUNTANT MEMBER
Mumbai, दिनांक/Dated: 13/01/2026
Saumya

Sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar), **ITAT, MUMBAI**