

IN THE INCOME TAX APPELLATE TRIBUNAL "G" BENCH MUMBAI
SHRI. ANIKESH BANERJEE, JUDICIAL MEMBER
AND
BEFORE SHRI. ARUN KHODPIA, ACCOUNTANT MEMBER

ITA No. 8091/MUM/2025
(Assessment Year: 2016-17)

Shanklesha Construction Sai Nirvana, Opp Century Rayon, Near Shahad Station, Kalyan, Thane 421103	Vs.	DCIT Circle 19(3), Mumbai Piramal Chambers, Morarjee Mills Compound, Next to Bharatmata Cinema Hall, Lower Parel, Mumbai 400013
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ABTFS2291K		
(Appellant)		(Respondent)

निर्धारितीकीओरसे / Assessee by:	Shri. Piyush Chhaged CA & Shri Veetraj Chhaged CA
/Revenue by:	Shri. Arun Kanti Datta-CIT DR

Date of Hearing	02.03.2026
Date of Pronouncement	06.03.2026

आदेश/ORDER

PER ANIKESH BANERJEE [J.M]:

The instant appeal of the assessee was preferred against the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)"] order passed u/s. 250 of the Income Tax Act, 1961 [hereinafter referred to as "Act"] order passed for the Assessment Year 2016-17 date of order 29.09.2025. The impugned order emanated from the order of the Ld. ACIT-Circle 18(3), Mumbai (hereinafter referred to as "Ld. AO"), order passed u/s. 143(3) date of order 28.12.2018.

2. The assessee has taken the following grounds:

1. On the facts and circumstances of the case, the Learned Assessing officer without verifying the records and submission made by the appellant made the high pitch addition of Rs. 10,83,36,519/- u/s 68 of the Income Tax Act, 1961, thereby raising the Income tax demand of Rs. 5,28,65,274/-

2. On the facts and circumstances of the case, the Ld AO erred in appreciating the fact that Rs.9,36,62,110/- received from M/s Saifee Developers Pvt Ltd without appreciating that during course of assessment assessee had discharged its onus.

3. On the facts and circumstances of the case, the Ld AO erred in appreciating the fact that closing balance of Rs.1,46,74,409/- is out of the opening balance of Rs.2,00,77,374/- of M/s ShareconeInfrastructure Pvt Ltd and therefore could not be addition during the year and also the assess had discharged its onus.”

3. The learned Authorised Representative (Ld. AR) submitted that the assessment was completed by making an addition under section 68 of the Act amounting to ₹10,83,36,519/-. Aggrieved by the said addition, the assessee preferred an appeal before the learned Commissioner of Income Tax (Appeals) [Ld. CIT(A)]. The Ld. CIT(A) issued notices under section 250 of the Act and granted opportunities of hearing on five different occasions. However, none of the notices were complied with, and ultimately, the appellate order was passed ex parte, upholding the impugned assessment order. It was contended that the Ld. CIT(A) decided the appeal without examining the merits of the case. Being aggrieved, the assessee has preferred the present appeal before us.

4. The Ld. AR further submitted that the notices were communicated to the email address of the accountant, Mrs. Mrunal Mule (mrunal.mule@muthaconstructions.in), as mentioned in Form No. 35. It was explained that the said accountant had resigned from her employment and the concerned email account had subsequently been deactivated. As a result, the notices were served on a deactivated email address, and the assessee was

never effectively intimated of the hearing dates. In support of this contention, Mr. Manish Prakash Mutha, partner of the assessee-firm, has filed a duly notarised affidavit dated 28.02.2026. It was further submitted that the assessee became aware of the impugned appellate order only upon receipt of communication relating to recovery of the outstanding demand. The Ld. AR pointed out that the correct and active email address for communication was duly mentioned in Form No. 36 as “**accounts@muthagroup.in**”. He therefore prayed that the matter be set aside to the file of the Ld. CIT(A) for fresh adjudication after granting proper opportunity of hearing, and requested that all further communications be made to the email address “**accounts@muthagroup.in**”.

5. The Ld. DR made submissions in support of the orders of the revenue authorities but did not raise any substantive objection to the factual assertions made by the Ld. AR.

6. We have heard the rival submissions and perused the material available on record. Considering the totality of the facts and circumstances of the case, we are of the considered view that the assessee was not afforded an effective and meaningful opportunity of being heard before the Ld. CIT(A). The appellate order was passed ex parte without adjudicating the grounds on merits. In the interest of substantial justice, and having regard to the explanation furnished regarding non-service of notices on an deactivated email address, we deem it appropriate to restore the matter to the file of the Ld CIT(A). The Ld. CIT(A) is directed to adjudicate the issues afresh on merits by passing a reasoned and speaking order in accordance with law after granting adequate opportunity of hearing to the assessee. The notice should be communicated in valid email ID as mentioned in Form No. 36 i.e. “**accounts@muthagroup.in**”. It is clarified

that we have not expressed any opinion on the merits of the additions made under section 68 of the Act, and all issues are left open for fresh adjudication. The assessee is directed to extend full cooperation and ensure due compliance in the remand proceedings so as to facilitate expeditious disposal of the appeal.

Accordingly, the appeal of the assessee is allowed for statistical purposes.

7. In the result, appeal of the assessee bearing **ITA No. 8091/Mum/2025** is allowed for statistical purposes.

Order is pronounced in the open court on 06.03.2026

Sd/-

ARUN KHODPIA
(ACCOUNTNAT MEMBER)

Sd/-

ANIKESH BANERJEE
(JUDICIAL MEMBER)

Place: Mumbai

Dated: 06.03.2026

Divya Ramesh Nandgaonkar
Stenographer

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to:

1. **अपीलार्थी / The Appellant**
2. **प्रत्यर्थी / The Respondent.**
3. **आयकरआयुक्त / CIT**
4. **विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरणDR, ITAT, Mumbai**
5. **गार्डफाईल / Guard file.**

सत्यापितप्रति //True Copy//
आदेशानुसार / BY ORDER,

सहायकपंजीकार (Asstt. Registrar)
आयकरअपीलीयअधिकरण / ITAT, Bench,
Mumbai.