



**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"SMC" BENCH, MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER**

ITA no.2088/Mum./2018  
(Assessment Year : 2010-11)

Shri Hemant V. More  
1<sup>st</sup> Floor, Ravi Raj Apartment  
Khadakpada Circle  
Near Wayale Nagar, Kalyan West  
Thane 421 301 PAN – AFWPM3020K

..... Appellant

v/s

Income Tax Officer  
Ward-3(2), Mumbai

..... Respondent

Assessee by : Shri Hemant V. More  
Revenue by : Shri Chaitanya Anjaria

Date of Hearing – 02.01.2019

Date of Order – 09.01.2019

**ORDER**

**PER SAKTIJIT DEY, J.M.**

Aforesaid appeal has been filed by the assessee challenging the order dated 27<sup>th</sup> February 2015, passed by the learned Commissioner (Appeals)-1, Mumbai, for the assessment year 2010-11.

2. Brief facts are, the assessee is an individual and is a practicing dental surgeon. He carries out his professional activities through a proprietary concern in the name and style of Shree Dental Speciality Clinic. For the assessment year under dispute, the assessee filed his

return of income on 14<sup>th</sup> October 2010, declaring total income of ₹ 10,94,020. The return of income filed by the assessee was selected for scrutiny and in the course of assessment proceedings the Assessing Officer called upon the assessee to prove the genuineness of unsecured loans of ₹ 28,05,000. Though, the assessee claimed the unsecured loan shown by him to be genuine and to substantiate such claim he produced certain documentary evidences, however, the Assessing Officer did not find the submissions of the assessee acceptable. Thus, he treated the unsecured loan of ₹ 24,85,000, as explained cash credit under section 68 of the Act and added back to the income of the assessee. Further, the Assessing Officer added back an amount of ₹ 50,000 out of the expenditure claimed towards petrol, telephone charges, travelling, etc. Being aggrieved with such additions the assessee preferred appeal before the first appellate authority.

3. As it appears from the impugned order of the learned Commissioner (Appeals), since no one appeared on behalf of the assessee to represent the case on the date of hearing, he disposed off the appeal ex–parte by sustaining the additions made by the Assessing Officer.

4. The assessee appearing in person submitted that due to certain unavoidable circumstances, neither he nor his counsel could appear before the learned Commissioner (Appeals), hence, the appeal was

decided ex-parte by sustaining the disallowance / additions. He submitted, given an opportunity, he will appear and produce necessary evidences before the learned Commissioner (Appeals) to prove the genuineness of unsecured loans. Thus, he requested for restoring the issues to the first appellate authority for de novo adjudication.

5. The learned Departmental Representative has no objection in restoring the issues to the learned Commissioner (Appeals) for de novo adjudication.

6. Having considered rival submissions and perused material on record, I am of the view that there is no need to delve deep into the issues raised in the present appeal, since, the limited submission of the assessee before me is to restore the issues to the learned Commissioner (Appeals) for de novo adjudication. Considering the fact that assessee's appeal was decided ex-parte by the learned Commissioner (Appeals), for whatever may be the reason, I am inclined to set aside the impugned order passed by the learned Commissioner (Appeals) and restore all the issues relating to the disputed additions back to him for de novo adjudication after due opportunity of being heard to the assessee. I also direct the assessee to respond to the hearing notices to be issued by the first appellate authority and represent his case in a proper and effective manner by

producing cogent documentary evidences. With the aforesaid observations, grounds are allowed for statistical purposes.

7. In the result, appeal stands allowed for statistical purposes.

Order pronounced in the open Court on 09.01.2019

**Sd/-**  
**SAKTIJIT DEY**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 09.01.2019**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The CIT(A);*
- (4) *The CIT, Mumbai City concerned;*
- (5) *The DR, ITAT, Mumbai;*
- (6) *Guard file.*

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

(Sr. Private Secretary)  
ITAT, Mumbai