

**आयकर अपीलीय अधिकरण “जे” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL “J” BENCH, MUMBAI**  
**BEFORE SHRI C. N. PRASAD, JM AND SHRI N. K. PRADHAN, AM**

आयकर अपील सं./I.T.A. No. 1450/Mum/2014

(निर्धारण वर्ष / Assessment Year: 2008-09)

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|---|----------------------|---|
| Jignesh L. Chheda<br>A-2, Dinathwadi, 1 <sup>st</sup> Floor,<br>L. J. Road, Opp. City Light Cinema,<br>Matunga (BB), Mumbai-400 016 | <b>बनाम/<br/>Vs.</b> | ITO, Ward-18(3)(2),<br>Piramal Chambers,<br>Lalbaug, Mumbai-400 012 |
| स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AABPC9651N   |                      |   |
| (अपीलार्थी /Appellant)  | :                    | (प्रत्यर्थी / Respondent)   |

|                                   |   |                   |
|-----------------------------------|---|-------------------|
| अपीलार्थी की ओर से / Appellant by | : | Shri Sameer Dalal |
| प्रत्यर्थी की ओर से/Respondent by | : | Shri Rajesh Johri |

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|--|---|------------|
| सुनवाई की तारीख /<br><b>Date of Hearing</b>      | : | 18.10.2016 |
| घोषणा की तारीख /<br><b>Date of Pronouncement</b> | : | 26.10.2016 |

**आदेश / ORDER**

Per N. K. Pradhan, A. M.:

This is an appeal filed by the assessee. The relevant assessment year is 2008-09. It is directed against the order of Commissioner (Appeals)-16, Mumbai and arises out of the order u/s. 143(3) of the Income Tax Act, 1961 ('the Act').

2. The grounds of appeal filed by the assessee read as under:

The learned Commissioner of Income-tax, (Appeals) has wrongly upheld additions made by the Assessing Officer

1.Unexplained Cash credits u/s.69A of I.T. Act, 1961

Rs.14,73,250

## 2. Other Income

Rs. 85,000

- The learned Commissioner of Income-tax (Appeals) has not considered submissions made by appellant wherein detailed explanation was given regarding source of cash deposited in bank Rs.14,73,250/-.

3. The AO during the course of assessment proceedings found that the assessee had deposited cash of Rs.14,73,250/- in the Memon Co-operative Bank on various dates. The assessee had also issued cheques in the name of various parties. The AO has listed 51 parties at page 3-4 of the assessment order. As the assessee could not furnish the address of the above parties, the AO held the cash deposited in Memon Co-operative Bank as the assessee's unexplained money and made an addition of Rs.14,73,250/- u/s.69A of the Act.

4. Further, at para 4 of the assessment order, the AO made a reference to the rental income of Rs.60,000/- declared by the assessee and additional income from LIC commission in the revised computation. As the assessee failed to disclose the income by filing the revised return of income within the due date, the AO brought to tax Rs.85,000/- under the head 'other income'.

5. The ld. CIT(A) mentions that in the appellate proceedings, the assessee has submitted the details giving name, address and amount paid to various suppliers of clothes along with extract from purchase register and copies of bills for the purchase of clothes with a request to accept the same as additional evidence under Rule 46A of the I. T. Rules, 1962. The ld. CIT(A) admitted the additional evidence and sent a copy of it to the AO for a remand report after due examination. In the remand proceedings, the letters sent by the AO u/s. 133(6) were returned back with the remark 'not known'. The assessee clarified before the ld. CIT(A) that the AO had sent the notices at the old addresses by which time the party had changed their locations. Having considered the facts and circumstances of the case, the ld. CIT(A) confirmed the

disallowance of Rs.14,73,250/- made by the AO u/s 69A of the Act. The Id. CIT(A) took note of the fact that the copies of bills/cash memos filed in respect of purchases claimed to have been made by the assessee do not contain any sales tax TIN numbers/VAT TIN number or any registration number. She also noted the fact that the assessee has not been able to explain why cheques for the exact amounts deposited in the bank account have been issued by the assessee on the very same date.

6. The Id. CIT(A) also confirmed the addition made by the AO of Rs.85,000/- under the head 'other income', since there is nothing brought on record by the assessee that the cash deposits emanated from the cloth trading activity, or for that matter the income generated is 'other income' which has been declared.

7. The Id. Counsel of the assessee submits before us that in the remand proceedings, the AO had sent notices at the old addresses by which time the parties have changed their locations. It is requested by him that the assessee may be allowed an opportunity to furnish the recent address of the parties before the AO for verification.

8. The Id. DR supports the order passed by the Id. CIT(A) upholding the addition made by the AO.

9. We have heard the rival submissions and perused the material on record. We find that the recent address of the 51 parties to be filed by the assessee before the AO would go a long way in establishing the taxability or otherwise of Rs.14,73,250/-. The absence of proper address before the AO led to the addition of the above sum. It is closely connected with the instant issue. The other addition of Rs.85,000/- made by the AO under the head 'other income' is also linked with the said verification as is evident from the submission made by the assessee before the Id. CIT(A) . In view of the above, we set aside the order of the Id. CIT(A) and restore the matter back to the

file of the AO for deciding the above two issues afresh as per the Act after allowing reasonable opportunity of being heard to the assessee. The assessee is also directed to furnish the relevant details before the AO.

10. In the result, the appeal is allowed for statistical purpose.

परिणामतः निर्धारिती की अपील सांख्यकीय उद्देश्य के लिए स्वीकृत की जाती है ।

*Order pronounced in the open court on October 26 , 2016*

Sd/-

(C. N. Prasad)

न्यायिक सदस्य / Judicial Member

Sd/-

(N. K. Pradhan)

लेखा सदस्य / Accountant Member

मुंबई Mumbai; दिनांक Dated : 26 .10.2016

व.नि.स./Roshani, Sr. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT - concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)**

**आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**