

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'डी', अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“ D ” BENCH, AHMEDABAD

सर्वश्री एस.एस.गोदारा, न्यायिक सदस्य एवं प्रदीप कुमार केडिया, लेखा सदस्य के समक्ष ।
BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER &
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No.696/Ahd/2011
(निर्धारण वर्ष / Assessment Year : 2009-10)

Bhupendra Ranchhodhbhai Thakkar FF-18, Harishkunj Society Nr.Vejalpur Gam Vejalpur,Ahmedabad-380051	बनाम/ Vs.	The ITO Ward-7(1) Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ADZPT 7125 R		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/ Appellant by :	Shri S.N. Divatia, AR
प्रत्यर्थी की ओर से/Respondent by :	Shri Pradeep Kumar Majumdar,Sr.DR

सुनवाई की तारीख / Date of Hearing	01/05/2017
घोषणा की तारीख /Date of Pronouncement	19/ 05/2017

आदेश / O R D E R

PER PRADIP KUMAR KEDIA, AM:

The captioned appeal by the Assessee is directed against the order of the Commissioner of Income Tax(Appeals)-XIV, Ahmedabad [CIT(A) in short] dated 16/12/2013 for the Assessment Year (AY) 2009-10.

2. The short controversy in the present appeal is towards addition of Rs.8.09 lakhs as income from undisclosed sources in the hands of the assessee.

3. The assessee is an individual and derives income from commission etc. The return of income for AY 2009-10 was filed at Rs.1,51,097/-. The case was selected for scrutiny assessment. In the course of the assessment proceedings, the Assessing Officer (AO) noticed that the AIR information showed that assessee had purchased immovable property for Rs.62,92,000/- on 17/10/2008 being Plot No.16 at Neelkanth Greens, Shilaj, Ahmedabad jointly with his brother Shri Rajesh Thakkar. The source of the aforesaid investment was enquired into. The assessee explained that he has received Rs.58 lakhs towards sale agreement of this very property from one Shri M.A.Parmar. The AO however did not find the explanation towards source of investment to be satisfactory. Accordingly, an addition of Rs.33,00,500/- being 50% of the cost of property Rs.66,01,000/- including stamp duty was assessed in the hands of the assessee.

4. In first appeal, the CIT(A) however subscribed to the explanation of the assessee towards receipt of funds from Shri M.A.Parmar to the extent of Rs.58 lakhs. Nonetheless, the source towards the differential amount of Rs.8,09,000/- being Rs.5 lacs towards initial payment and

Rs.3.09 lakhs incurred towards stamp duty charges were not accepted as satisfactory and accordingly confirmed.

5. Aggrieved, the assessee is in appeal before the Tribunal.

6. The Ld.AR for the assessee Shri S.N.Divatia submitted that initial payment of Rs.5 lakhs on 15/04/2008 is out of own resources in the hands of the assessee. However, as regards stamp duty charges of Rs.3.09 lakhs, the Ld.AR drew blank and could not give any firm reply.

7. The Ld.DR, on the other hand, relied on the order of the CIT(A).

8. We have carefully considered the rival submissions. We find that the assessee, at the first instance, before the AO came out with the explanation that initial payment of Rs.5 lakhs in April-2008 is out of its own resources. We do not find any rebuttal from the Revenue on this fact. We also find that explanation of the assessee is plausible in the wake of the socio-economic environment as prevalent in the country where some cash is normally preferred to be kept in custody for immediate needs. In the absence of any rebuttal, we find no reason to deny the benefit of doubt to the assessee. Accordingly, unexplained income to the extent of Rs.5 lakhs stands deleted. However, in the absence of any satisfactory explanation towards source of payment of

stamp duty Rs.3.09 lakhs, we decline to interfere with the order of the CIT(A).

9. In the result, appeal of the assessee is partly allowed.

This Order pronounced in Open Court on 19 / 05/2017

Sd/-
(एस.एस.गोदारा)
न्यायिक सदस्य
(S.S. GODARA)
JUDICIAL MEMBER
Ahmedabad; Dated 19/ 05 /2017

Sd/-
(प्रदीप कुमार केडिया)
लेखा सदस्य
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

टी.सी.नायर, व.नि.स./T.C. NAIR, Sr. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-XIV, Ahmedabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER.

सत्यापित प्रति //True Copy//

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आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad