

**आयकर अपीलीय अधिकरण “एक-सदस्य मामला” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, MUMBAI**

**BEFORE SHRI SANJAY ARORA, AM**

आयकर अपील सं./I.T.A. No. 1469/Mum/2015  
(निर्धारण वर्ष / Assessment Year: 2010-11)

Harmeet Singh Sablok A/24, Queens Park Premises CHS Ltd., Juhu, Santacruz (W), Mumbai-400 049	<b>बनाम/</b> Vs.	ITO, Ward-19(2), Piramal Chambers, Lalbaug, Mumbai-400 012
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. ALRPS 3621 D		
(अपीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)
अपीलार्थी की ओर से / Appellant by	:	Shri S. S. Phadkar
प्रत्यर्थी की ओर से/Respondent by	:	Shri Arvind Kumar
सुनवाई की तारीख / Date of Hearing	:	27.6.2016
घोषणा की तारीख / Date of Pronouncement	:	29.6.2016

**आदेश / ORDER**

Per Sanjay Arora, A. M.:

This is an Appeal by the Assessee directed against the Order by the Commissioner of Income Tax (Appeals)-32, Mumbai ('CIT(A)' for short) dated 27.1.2015, dismissing the Assessee's appeal contesting its assessment u/s.143(3) r/w s. 147 of the Income Tax Act, 1961 ('the Act' hereinafter) for the assessment year (A.Y.) 2010-11 vide order dated 13.3.2014.

2. The issue under appeal; the assessee not pressing his Ground # 1, pertains to an addition for Rs.22,92,105/- u/s. 69 of the Act toward unexplained deposits in the assessee's bank account with Standard Chartered Bank, Centre Point Branch, Mumbai

(Account No. 22310686071), made in the impugned sum (i.e., excluding deposit for Rs.1,888/- by way of bank interest) during the current year in-as-much as the said bank account was undisclosed. The case has a past history. The assessments for A.Ys. 2008-09 and 2009-10 were like-wise taken up under the verification procedure under the Act by the Revenue on the receipt of AIR information, i.e., *qua* the cash deposits in the said bank account. The matter travelled up to the Tribunal, which, on a consideration of entirety of the facts and circumstances of the case, confirmed the addition to the extent of 25% of the deposits in the said bank account, vide its order for A.Y. 2009-10 (in ITA No. 7580/Mum/2013 dated 30.6.2015), and following it, per order dated 12.10.2015 for A.Y. 2008-09 (in ITA No. 1468/Mum/2015), copies of which were placed on record by the Id. AR during hearing, referring to the operating part thereof. Further, though he conceded to the income *qua* the said bank account be similarly estimated for the current year, i.e., at 25% of the impugned deposit, he raised another plea, raising a factual issue, that the income already returned as business income (Rs.2,44,000/-/PB pgs. 23-24), and assessed as such, be adjusted/set off against the income so estimated and only the balance be additionally brought to tax. The Id. DR would object, stating that there is no factual basis for the assessee to raise the said claim, which is being raised before the tribunal for the first time.

3. The parties were heard, and the material on record perused, giving a careful consideration to the matter. I find no merit in the assessee's, whose whole case is un-evidenced, said plea. He has been allowed relief by the tribunal for the earlier years on the ground that he being a businessman, the bank account under reference would also be similarly, i.e., as his other bank accounts, deployed for business purposes, and that the deposits therein therefore do not wholly represent income from his business, estimating a part of the said deposits, which continue to be unexplained, as bearing the character of income, i.e., as the income embedded in the said receipts. There is in fact nothing on record to exhibit that the assessee is in the business of auto parts and sale

of old cars, as contended. The claimed set-off could only be where the income as reflected per the impugned account stands disclosed per the return of income. The assessee admittedly does not maintain any books of account. There is nothing to show that the income returned also includes that per the bank account with Standard Chartered Bank (SCB), implying of it being in effect disclosed. The returned business income of Rs.2.44 lacs works to ~ 18% of the total receipt of Rs.13.59 lacs as reflected in the assessee's disclosed bank accounts with PMC Bank (PB pg. 22) and Kotak Mahindra Bank (PB pg. 42), which is lower than that estimated by the tribunal. There is thus no basis for the said plea. Why, the assessee has also not returned the bank interest of Rs. 1,888/-, reflected in the SCB a/c, which demonstrates, if any proof was necessary, that the income returned did not include that arising per the said account (with SCB). The said plea is, accordingly, rejected, while restricting the addition *qua* the deposits in the Standard Chartered Bank, which thus continues to be undisclosed, at 25% of the impugned sum of Rs. 22.92 lacs, as estimated by the tribunal for the earlier years. It is surprising, it may be added, that the assessee continues to not disclose the income in the said account to the Revenue. Needless to add, the bank interest of Rs. 1,888/-, though explained as to its nature and source, is only income for the current year, and being undisclosed, would also require being added separately. I decide accordingly.

3. In the result, the assessee's appeal is partly allowed.

परिणामतः निर्धारिती की अपील आंशिक स्वीकृत की जाती है ।

*Order pronounced in the open court on June 29, 2016*

Sd/-

(Sanjay Arora)

लेखा सदस्य / Accountant Member

मुंबई Mumbai; दिनांक Dated : 29.06.2016

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**