

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री भागचन्द, लेखा सदस्य एवं श्री कुल भारत, न्यायिक सदस्य के समक्ष  
BEFORE: SHRI BHAGCHAND, AM AND SHRI KUL BHARAT, JM

आयकर अपील सं./ITA No. 1091/JP/2016  
निर्धारण वर्ष/Assessment Year : 2011-12.

|   |             |                                   |
|---|-------------|-----------------------------------|
| Vishnu Prasad,<br>Namdev Exports,<br>Opp. Dhanopia Textiles, Sanganer,<br>Jaipur. | बनाम<br>Vs. | The DCIT,<br>Circle-7,<br>Jaipur. |
| स्थायी लेखा सं./जीआईआर सं./PAN No. AAPPP 9225 M                                   |             |                                   |
| अपीलार्थी/ Appellant  |             | प्रत्यर्थी/ Respondent            |

निर्धारिती की ओर से/ Assessee by : Shri Manish Agarwal (CA)  
राजस्व की ओर से/ Revenue by : Shri Rajendra Singh (JCIT)

सुनवाई की तारीख/ Date of Hearing : 13.09.2017.  
घोषणा की तारीख/ Date of Pronouncement : 14/09/2017.

आदेश / ORDER

PER SHRI KUL BHARAT, JM.

This appeal by the by the assessee is filed against the order of Id. CIT (A)-III, Jaipur dated 16.09.2016 pertaining to assessment year 2011-12. The assessee has raised the following grounds of appeal :-

1. On the facts and in the circumstances of the case and in law, Id. CIT (A) erred in confirming addition of Rs. 30,50,000/- made by AO u/s 68 alleging cash deposits in bank account as undisclosed income.
  - 1.1. That Id. CIT (A) erred in confirming addition of Rs. 30,50,000/- ignoring the submission of assessee that the said amount represented sale consideration received by assessee for sale of land.
  - 1.2. That Id. CIT (A) erred in confirming addition of Rs. 30,50,000/- ignoring the evidences produced in the shape of sale agreement, merely for the reason that agreement was not

registered. Appellant prays addition so made may please be deleted.

2. On the facts and in the circumstances of the case and in law, Id. CIT (A) erred in confirming addition of Rs. 15,00,000/- made by AO u/s 68 alleging cash deposits in bank account of assessee as undisclosed income.
  - 2.1. That Id. CIT (A) erred in confirming addition made by AO completely ignoring the submission of the assessee that the cash deposits were made out of sum received back of advance from one Shri Hanuman, to whom advance was made for purchase of land in earlier years.
3. On the facts and in the circumstances of the case and in law, Id. CIT (A) erred in confirming addition of Rs. 3,65,836/- being difference between DLC and cost of asset transferred by assessee to firm in which he was partner.
  - 3.1. That Id. CIT (A) erred in confirming the addition ignoring the submission made by assessee that provisions of section 50C are not applicable in respect of transfer made in accordance with section 45(3) of the Act.
4. That the appellant craves the right to add, delete, amend or abandon any of the grounds of appeal either before or at the time of hearing of appeal.

2. At the time of hearing, the Id. Counsel for the assessee has submitted that the Id. CIT (A) has decided the appeal of the assessee ex parte without affording proper opportunity of hearing to the assessee. He submitted that Id. CIT (A) while deciding the appeal has not taken into consideration the written submissions of the assessee. He, therefore, prayed that the order of Id. CIT (A) be set aside and the matter be restored back to his file for deciding afresh after providing opportunity to the assessee.

3. On the contrary, the Id. D/R supported the orders of the authorities below and opposed the submissions.

4. After hearing rival submissions and going through the orders of the authorities below, in the interest of natural justice, we set aside the order of the Id. CIT (A). The matter is restored back to Id. CIT (A) for deciding the same on merits, after affording opportunity of hearing to the assessee.

5. In the result, appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 14.09.2017.

Sd/-  
( भागचन्द )  
( BHAGCHAND)  
लेखा सदस्य/Accountant Member  
Jaipur  
Dated:- 14/09/2017.  
Das/

Sd/-  
( कुल भारत )  
( KUL BHARAT )  
न्यायिक सदस्य/Judicial Member

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

1. The Appellant- Shri Vishnu Prasad, Jaipur.
2. The Respondent – The DCIT, Circle-7, Jaipur.
3. The CIT(A).
4. The CIT,
5. The DR, ITAT, Jaipur
6. Guard File (ITA No. 1091/JP/2016)

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant. Registrar

