

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "A" MUMBAI**

**BEFORE SHRI D.T. GARASIA (JUDICIAL MEMBER) AND  
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**ITA No. 6126/MUM/2011  
Assessment Year: 2008-09**

Shri Ajay Kumar Baid  
1<sup>st</sup> Floor, Chandra Mahal,  
241, Princess Street,  
Mumbai-400020

ITO-14(3)(1)  
6<sup>th</sup> floor, Earnest House  
Vs. Nariman Point  
Mumbai-400021

**PAN No. AAAPB5350N**  
**Appellant**

**Respondent**

Assessee by : None  
Revenue by : Shri Rajesh Kumar Yadav, DR

Date of Hearing : 03/10/2017  
Date of pronouncement : 31/10/2017

**ORDER**

**PER N.K. PRADHAN, A.M.**

This is an appeal filed by the assessee. The relevant assessment year is 2008-09. The appeal is directed against the order of the Commissioner of Income Tax (Appeals)-25, Mumbai and arises out of the assessment completed u/s 143(3) of the Income Tax Act 1961, (the 'Act').

2. The case was fixed for hearing before the Tribunal on various dates like 22.06.2016 and 03.10.2017. Neither the assessee nor his authorized representative appeared before the Tribunal on the above dates.

As such we are proceeding to dispose of this appeal by hearing the Ld. DR and going through the materials available on record.

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

1. The Ld. Assessing Officer had erred in adding Rs.80,950/- to the income from other sources. The Ld. CIT appeal on an appeal by the appellant against the order of the Assessing Officer had erred in by confirming the additions made by the Assessing Officer. Reasons assigned by him doing the same are wrong and insufficient, regards being had to be facts and the circumstances of the case, the said addition should not be confirmed.
2. The Ld. CIT(A) had erred in by confirming the addition of Rs.5,40,110/- u/s 69 as unexplained investment made by the Assessing Officer. Reasons assigned by him for doing the same are wrong and insufficient, regards being had to the facts and the circumstances of the case, the said addition should not be confirmed.

4. Briefly stated, the facts of the case are that the Assessing Officer (AO) made an addition of (i) Rs.80,950/- on account of undisclosed interest income and (ii) Rs.5,40,110/- on account of unexplained investment in bank FD. In appeal, the Ld. CIT(A) held as under:

“On careful consideration of the arguments of Ld. AR and facts stated by the AO in the assessment order, it immensely transpires that the assessee had disclose any interest income or investment in FDs either in return of income or Balance Sheet of the assessee or his minor children. It should be keep in

mind that when the AO first asked the assessee to explain the interest income as appearing in ITS details, the assessee and his Ld. A.R. categorically denied to have received any interest income or any investment in FDs. Only after the necessary enquiry conducted by the AO establishing that assessee had made investment in FDs and also received the interest income thereon, the assessee was compelled to admit that interest was received and assessee had made investment in FDs. This fact itself proves that assessee had concealed the investment in FDs and interest thereon. Similarly, interest income from Ray Ban (I) Holdings Inc was initially denied and when confronted with confirmation from the payers, the same was accepted as such, but claimed that the assessee had not received cheque in actual. The whole behavior of the assessee is evasive. The so called Affidavit of the father stating that the amount was invested as FD itself proves that the assessee was aware of the investment in FD and consequential interest income, but not disclosed the same in Balance Sheet, etc. for the reason that it was from undisclosed and unexplained sources. It cannot be ignored that in spite of residence in Mumbai, the investment in F.D. was made in Union Bank of India, Umbergaon Branch, Gujarat, so that Income Tax Authorities cannot trace the same. The claim that the amount was received from maternal grand mother cannot be accepted as such in given circumstances. Apart there from it is not proved that which were the sources of income of maternal grand mother and when and how the said amount was given to the assessee's minor children in exclusion of other persons. There is no confirmation from maternal grand mother and also no evidence in form of bank pass book, source of her income, etc. Similarly, there are no evidences in respect of claim of Agriculture income. The 7/12 extract form shown a meager holding in the name of assessee's wife, which is less than an acre. Even it is not proved by way of Income & Expenditure statement of agriculture operations, corresponding sale bills, purchase of seeds, fertilizer, etc. and location of the surplus of agriculture income if any and its trail i.e. bank statement, etc. Thus, it

immensely transpires that the investment in FD is wholly and fully out of undisclosed income of the assessee and not offered for taxation. It clearly divulges that assessee had earned undisclosed and unaccounted income and to that extent concealed the income. Under these circumstances, in my considered view the additions made by the AO is indeed only fit to be confirmed. Accordingly, all the additions made by the AO on the disputed issues are confirmed.”

5. The Ld. DR supports the order passed by the Ld. CIT(A).
6. We have heard the Ld. DR and perused the relevant materials on record. We find that no other supporting evidence except the affidavit was filed by the assessee before the Ld. CIT(A) to justify the quantum of agricultural income. Also no other corroborative evidence could be filed by the assessee before the AO or the Ld. CIT(A). We thus agree with the findings of the Ld. CIT(A) as delineated at para 4 hereinbefore.
7. In the result, the appeal is dismissed.

**Order pronounced in the open Court on 31/10/2017.**

Sd/-

Sd/-

(D.T. GARASIA)  
JUDICIAL MEMBER

(N.K. PRADHAN)  
ACCOUNTANT MEMBER

Mumbai;

Dated: 31/10/2017

*Rahul Sharma, Sr. P.S.*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai

6. Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**