

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

श्री कुल भारत, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI KUL BHARAT, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 347/JP/2015
निर्धारण वर्ष/Assessment Year : 2007-08.

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| Shri Gopal Yadav, S/o Shri Jeevan Ram, Village- Begus, Jaipur. | बनाम Vs. | The Income Tax Officer, Ward 7(2), Jaipur. |
| स्थायी लेखा सं./जीआईआर सं./PAN No. AMKPG 9420 C | | |
| अपीलार्थी / Appellant | | प्रत्यर्थी / Respondent |

आयकर अपील सं./ITA No. 348/JP/2015
निर्धारण वर्ष/Assessment Year : 2007-08.

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| Shri Mahadev Yadav, S/o Shir Narain Village- Begus, Jaipur. | बनाम Vs. | The Income Tax Officer, Ward 7(2), Jaipur. |
| स्थायी लेखा सं./जीआईआर सं./PAN No. ACFPY 8032 P | | |
| अपीलार्थी / Appellant | | प्रत्यर्थी / Respondent |

आयकर अपील सं./ITA No. 349/JP/2015
निर्धारण वर्ष/Assessment Year : 2007-08.

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| Shri Hanuman Yadav, S/O Shri Kalyan, Village- Begus, Jaipur | बनाम Vs. | The Income Tax Officer, Ward 7(2), Jaipur. |
| स्थायी लेखा सं./जीआईआर सं./PAN No. BONPS 0928 D | | |
| अपीलार्थी / Appellant | | प्रत्यर्थी / Respondent |

निर्धारिती की ओर से / Assessee by : Shri P.C. Parwal (C.A.)
राजस्व की ओर से / Revenue by : Shri Rajendra Jha(JCIT)

सुनवाई की तारीख / Date of Hearing : 19.05.2017.
घोषणा की तारीख / Date of Pronouncement : 29/05/2017.

आदेश / ORDER

PER SHRI KUL BHART, JM.

These three Appeals filed by the different Assessee is directed against the order of Ld. CIT (Appeals)-3, Jaipur dated 27.02.2015 pertaining to Assessment Year

2007-08. Since the common grounds are involved in these appeals. All these appeals are taken up together and disposed of by consolidated order.

At the time of hearing, the Ld. Counsel for the assessee submitted that the facts are identical in all these cases. Therefore, He submitted that ITA No. 348/JP/2015 may be taken up as a lead case.

ITA No. 348/JP/2015.

Therefore, first we take up ITA No. 348/JP/2015.

The assessee has raised the following grounds of appeal :-

- “1. That the Authorities below erred in making the addition of Rs. 52,40,000/- as unexplained cash credit and added to the total income of the petitioner as discussed in para 4(3) of the CIT(A) order.
2. That the Authorities below further erred in making an addition of Rs. 8,00,000/- as unexplained investment as discussed in para 5(3) of the CIT(A) order.
3. That the Authorities below further erred in making an addition of Rs. 90,000/- as income from undisclosed sources as discussed in para 6(3) of the CIT(A) order.
4. That the Authorities below further erred in making an addition of Rs. 3,47,400/- as alleged unexplained expenditure in registration charges as discussed in para 7(3) of the CIT(A) order.
5. That the addition so make by the authority is bad in law as well as on facts.
6. That the petitioner craves to add, alter or amend all or any of the grounds of appeal on or before the date of hearing.”

2. Ground nos. 1 to 4 Are inter-connected. Therefore, all grounds are being disposed of.

3. Briefly, stated the facts are that the assessee was reopened and the assessment under section 143(3) read with section 147 of the Income Tax Act, 1961 (hereinafter referred to as the Act) was framed vide order dated 19th March, 2013. While framing the assessment the Assessing Officer observed that the assessee

along with other two brothers namely Sh. Hanuman and Sh. Gopal, purchased land for Rs. 1,87,20,000/- on 24/05/2006. The land was jointly purchased. The assessee was asked to furnish the source of investment vide order dated 25/02/2013. The assessee stated that the investment was made out of own funds of the assessee and his brothers and loans from 19 other persons. It was stated that assessee and his two brothers out of own source invested Rs. 40 lakhs and a sum of Rs. 1,47,20,000/- was invested out of the loan fund. It was stated that the assessee's sale in investment came to Rs. 62.40 lacs excluding the registration authorities. It is observed by the Assessing Officer that the assessee had taken loan of Rs. 52.40 lacs. The assessee was asked to furnish the source of such investment and after considering the material available record the Assessing Officer assessed total income of Rs. 65,27,930/- and made addition on account of unexplained registration of Rs. 3,74,400/- and unexplained income of Rs. 8 lacs inflated agricultural income of Rs. 90,000/-.

4. Aggrieved by this, the assessee preferred an appeal before Ld. CIT(A), who after considering the submission dismissed the appeal. Now, the assessee is in further appeal before this Tribunal.

Ld. Counsel for the assessee submitted that in course of Assessment proceedings, the assessee had furnished confirmation of all 19 persons in respect of the loan given by them and drew our attention to **Paper Book Page No. 7-25**. The assessee produced all these persons before the AO except Sh. Mangilala who had expired but the AO recorded the statements of only 4 persons and did not record the statements of other persons for the reasons best known to them. He submitted

before Ld. CIT(A), the assessee had filed an evidence of their agricultural income by filing their Girdawari report. From the same it can be noted that these persons have substantial agricultural landholding and agricultural income which proves their creditworthiness. Therefore, without any material prove otherwise, addition made by the AO and confirmed by CIT(A) is unjustified.

5. On the contrary, the Ld. Departmental Representatives opposed the submissions and submitted that these evidences were not furnished before the authorities below.

6. We have heard the rival contentions, perused the material available on record and gone through the order of the authorities below. We find that the assessee had placed on record Girdawari report PB L-1 to L19 of the people who had claimed to have given loan to the assessee. The Ld. Counsel for the assessee, during the course of hearing stated that these evidences would prove the creditworthiness of the persons who have given loan to the assessee. It is contended that matter may be restored to the file of the Assessing Officer for decision afresh; on this Ld. D/R has no objections. Therefore, considering the totality of the fact, we set aside the assessment order and direct the Assessing Officer to frame denovo assessment, after verifying the claim of the assessee. The appeal of the assessee is allowed for statistical purpose.

7. Now we take up assessee's appeal i.e. **in ITA No. 347/JP/2015 and ITA No. 349/JP/2015 pertaining to the AY 2007-08.**

Both the appeals' grounds are reproduced as under:-

ITA No. 347/JP/2015

The assessee has raised the following grounds of appeal:—

- “1. That the Authorities below erred in making the addition of Rs. 42,40,000/- as unexplained cash credit and added to the total income of the petitioner as discussed in para 4(3) of the CIT(A) order.
2. That the Authorities below further erred in making an addition of Rs. 18,00,000/- as unexplained investment as discussed in para 5(3) of the CIT(A) order.
3. That the Authorities below further erred in making an addition of Rs. 40,000/- as income from undisclosed sources as discussed in para 6(3) of the CIT(A) order.
4. That the Authorities below further erred in making an addition of Rs. 3,74,400/- as alleged unexplained expenditure in registration charges as discussed in para 7(3) of the CIT(A) order.
5. That the addition so make by the authority is bad in law as well as on facts.
6. That the petitioner craves to add, alter or amend all or any of the grounds of appeal on or before the date of hearing.”

ITA No. 349/JP/2015

The assessee has raised the following grounds of appeal:-

- “1. That the Authorities below erred in making the addition of Rs. 52,40,000/- as unexplained cash credit and added to the total income of the petitioner as discussed in para 4(3) of the CIT(A) order.
2. That the Authorities below further erred in making an addition of Rs. 8,00,000/- as unexplained investment as discussed in para 5(3) of the CIT(A) order.
3. That the Authorities below further erred in making an addition of Rs. 40,000/- as income from undisclosed sources as discussed in para 6(3) of the CIT(A) order.
4. That the Authorities below further erred in making an addition of Rs. 3,74,400/- as alleged unexplained expenditure in registration charges as discussed in para 7(3) of the CIT(A) order.
5. That the addition so make by the authority is bad in law as well as on facts.
6. That the petitioner craves to add, alter or amend all or any of the grounds of appeal on or before the date of hearing.”

8. The facts are identical in both the appeals as were in **ITA No. 348/JP/2015**. The parties have adopted the same arguments. In this case also

we set aside the order and directed the Assessing Officer for framing denovo assessment. Both the appeals are allowed for statistical purposes.

9. In the result, all three appeal i.e. in ITA Nos. 347/JP/2015, 348/JP/2015 & 349/JP/2015 are allowed for statistical purpose.

Order pronounced in the open court on Monday, the 29th day of May 2017.

Sd/-

(विक्रम सिंह यादव)
(VIKRAM SINGH YADAV)
लेखा सदस्य/Accountant Member

Sd/-

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

Jaipur

Dated:- 29 /05/2017.

Pooja/

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

1. The Appellant- Shri Gopal Yadav, Shri Mahadev Yadav, Shri Hanuman Yadav, Begus Jaipur.
2. The Respondent- The Income Tax Officer, Ward 7(2), Jaipur.
3. The CIT(A)
4. The CIT,
5. The DR, ITAT, Jaipur
6. Guard File (ITA Nos. 347, 348 & 349/JP/2015)

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant. Registrar

