

आयकर अपीलिय अधिकरण, मुंबई न्यायपीठ "ए" मुंबई
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, MUMBAI
BEFORE HON'BLE S/SHRI JOGINDER SINGH (JM), AND RAJESH KUMAR,(AM)

आयकर अपील सं./I.T.A. No.5843/Mum/2012

(निर्धारण वर्ष / Assessment Year : 2009-10)

Shri Ashok P Shah, 701, Lamaire Chs Ltd, Jay Bhavani Mata Road, Amboli, Andheri (W), Mumbai-400058	बनाम/ Vs.	Income Tax Officer 14(2)(1), Earnest House, Nariman Point, Mumbai
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. :AKMPS5481P

अपीलार्थी ओर से / Appellant by:	Ms Keyuri Desai
प्रत्यर्थी की ओर से/Respondent by	Shri A Ramchandran

सुनवाई की तारीख / Date of Hearing : 27.7.2016

घोषणा की तारीख /Date of Pronouncement : 29.7.2016

आदेश / O R D E R

Per RAJESH KUMAR, Accountant Member:

This is an appeal filed by the assessee and is directed against the order of the Ld. CIT(A)-25, Mumbai dt.6.8.2012 pertaining to A.Y. 2009-10.

2. Only issue raised in ground of appeal is against the confirmation of addition of Rs.27,45,000/- by the Id. CIT(A) as made by the AO under section 69 of the Income Tax Act, 1961 as unexplained investment in violation of principle of natural justice.

3. At the outset, the Id. Counsel of the assessee pointed out that the identical issue in the preceding assessment year i.e. assessment year 2008-

09 has been restored to the file of the Id.CIT(A) for adjudication denovo by the decision of Co-ordinate Bench of the Tribunal in assessee's own case in ITA No.6828/Mum/2011 (AY-2008-09) dated 19.1.2016.

4. The Id. DR also fairly agreed with the submissions of the Id.AR.

5. We have carefully considered the rival submissions and perused the material placed before us including the orders of authorities below and relied upon by the assessee. We find from the decision of co-ordinate Bench vide order dated 19.1.1996 passed in ITA No.6828/Mum/2011(AY-2008-09), has restored the issue to the file of Id. CIT(A) to decide the same afresh in accordance with law under identical facts. In this case also, following the decision of the Co-ordinate Bench, we restore the matter back to the file of AO for adjudication denovo after giving reasonable opportunity of the assessee. The assessee is also directed to co-operate with the Id. CIT(A) for speedy disposal of the case.

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

The above order was pronounced in the open court on 29th July, 2016.

घोषणा खुले न्यायालय में दिनांक: 29th July, 2016 को की गई ।

Sd

(JOGINDER SINGH)
Judicial Member

sd

(RAJESH KUMAR)
Accountant Member

मुंबई Mumbai:29th July, 2016.

व.नि.स./ SRL , 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)- concerned
4. आयकर आयुक्त / CIT concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /
DR, ITAT, Mumbai concerned
6. गार्ड फाईल / Guard file.

True copy

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई /ITAT, Mumbai