

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

BEFORE SHRI SHAMIM YAHYA, AM

आयकर अपील सं./I.T.A. No.6066/Mum/2016

(निर्धारण वर्ष / Assessment Year: 2012-13)

M/s. Indiamonds 17, Fulchand Niwas, 25, Chowpatty Sea Face, Mumbai-400 007	बनाम/ Vs.	ITO, Ward 18(1)(5), Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAAFI 9602 C		
(अपीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)
अपीलार्थी की ओर से / Appellant by	:	None
प्रत्यर्थी की ओर से/Respondent by	:	Shri Saurabh Deshpande
सुनवाई की तारीख / Date of Hearing	:	01.03.2018
घोषणा की तारीख / Date of Pronouncement	:	16.05.2018

आदेश / ORDER

Per Shamim Yahya, A. M.:

This appeal by the assessee is directed against the order by the Commissioner of Income Tax (Appeals) dated 21.07.2016 and pertains to the assessment year 2012-13.

2. The grounds of appeal reads as under:

1. On the facts and circumstances of the case, as well as law on the subject, the learned Commissioner of Income Tax (Appeals) has erred in confirming the action of Assessing Officer in making addition of Rs.4,00,000/- u/s. 68 of the Income Tax Act, 1961 on account of alleged unexplained cash credit.

3. Upon the assessee's appeal, the Id. Commissioner of Income Tax (Appeals) confirmed the addition.

4. Against the above order, the assessee is in appeal before the ITAT.

5. I have heard the Id. Departmental Representative and perused the materials on record. None appeared on behalf of the assessee despite service of notice of hearing. Upon careful consideration, I find that the assessee has completely failed to justify the creditworthiness of the person granting loans to the extent added by the Assessing Officer. It has been clearly brought on record that these persons granting loan do not have justifiable income to grant the loans. Furthermore, there have been cash deposits in their bank account immediately prior to the granting of the loan. These facts cannot be ignored by the Revenue. As held by the Hon'ble Apex Court in the case of Sumati Dayal vs. CIT [1995] 214 ITR 801 (SC), the Revenue has not to put upon the blinkers but has to appreciate the surrounding circumstances. On the facts and circumstances of the case, in my considered opinion, there is no infirmity in the order of the authorities below. Accordingly, I uphold the same.

6. In the result, the assessee's appeal stands dismissed.

Order pronounced in the open court on 16.05.2018

Sd/-

(Shamim Yahya)

लेखा सदस्य / Accountant Member

मुंबई Mumbai; दिनांक Dated : 16.05.2018

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**