

आयकर अपीलीय अधिकरण ,इन्दौर न्यायपीठ ,इन्दौर  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
INDORE BENCH, INDORE

श्री कुल भारत, न्यायिक सदस्य

तथा

श्री मनीष बोरड, लेखा सदस्य के समक्ष

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
AND  
SHRI MANISH BORAD, ACCOUNTANT MEMBER

आ.अ.सं./I.T.A. No. 1514/Ind/2016		
निर्धारणवर्ष/ Assessment Year : 2009-10		
Shri Suresh Nanwani, S/o Shri Tulsidas Nanwani, Indore.	vs.	ITO, 3(3), Indore.
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent
स्था.ले.सं./PAN: ABNPN9883A		

अपीलार्थी की ओर से/Appellant by	:	Shri G. B. Agarwal, CA
प्रत्यर्थी की ओर से/Respondent by	:	Shri P.Mourya, Sr. DR.

सुनवाई की तारीख/Date of hearing	:	27.06.2018.
उद्घोषणा की तारीख/Date of pronouncement	:	29.06.2018

**आदेश / O R D E R**

**PER KUL BHARAT, J.M. :**

Appeal filed by the assessee is directed against the order of Ld. CIT(A)-I, Indore, dated 10.09.2016, pertaining to assessment year 2009-10.

2. The assessee has raised the following grounds of appeal :-

1. The Ld. CIT(A) failed to appreciate the facts and circumstances of the case, details and documents on records and judicial pronouncements placed on record and erred in confirming the reassessment proceedings, which is arbitrary, unjust and bad in law.

2. 1. That under the facts and circumstances of the case, details & documents on record, the Id. AO erred in confirming the addition of Rs. 6,08,250/-

on account of cash deposits in bank account which is arbitrary, unjust & bad in law.

2.2 Without prejudice to the above, addition maintained at Rs. 6,08,250/- is arbitrary since the same is without appreciating the following :-

- That the appellant is not held as benamidar of Mr. Sumer Singh Solanki.
- Applicant was made second holder of account since 30<sup>th</sup> Jan.,2007.
- During the relevant period u/s 44AF net profit @ 5% of turnover is applicable while profit percentage of 15% was applied on total turnover by the Ld. CIT(A).

2.3 Without prejudice to the above, the Ld. CIT(A) erred in not considering the 'peak credit' in the aforesaid bank account of Rs. 1,85,328/-

in not deleting the additions in excess of the same, which is arbitrary & unjust.

3. The Ld. Counsel for the assessee contended that the Ld. CIT(A) has failed to appreciate the facts and circumstances of the case, details and documents on records and judicial pronouncements placed on record and erred in confirming the reassessment proceedings, which is arbitrary, unjust and bad in law. The AO failed to appreciate the details & documents on record and the Id. AO erred in confirming the addition of Rs. 6,08,250/-.

4. The Ld. Departmental Representative relied on the orders of the lower authorities.

5. We have considered the facts, rival submissions and perused the material available on record. We find that the assessee did not appear before the AO and the AO passed the order. In the interest of natural justice, we deem it proper to set aside the matter back to the file of the AO

with the direction that he shall afford an opportunity of being heard to the assessee and then decide the matter afresh in accordance with law.

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

The order pronounced in the open court on 29.06.2018.

Sd/-

(मनीष बोरड)

लेखा सदस्य

(MANISH BORAD)

ACCOUNTANT MEMBER

Sd/-

(कुल भारत)

न्यायिक सदस्य

(KUL BHARAT)

JUDICIAL MEMBER

Indore; दिनांक Dated : 29/06/2018

***CPU\*/SPS***

Copy to: Assessee/AO/Pr. CIT/ CIT (A)/ITAT (DR)/Guard file.

By order

**Private Secretary/DDO, Indore**