

**IN THE INCOME TAX APPELLATE TRIBUNAL  
RANCHI BENCH, RANCHI**

Before **Shri S.S.Godara, Judicial Member** and  
**Dr. A.L. Saini, Accountant Member**

**ITA No.86/Ran/2017**  
Assessment Year :2011-12

Income Tax Officer, Ward-2(5), 2, Bagmati Road, Northern Town, Jamshedpur-831001	<b>V/s.</b>	Sri Naresh Kumar, Q. No.21, Road, No.2, Gurudwara Basti, Bistupur, Jamshedpur, <b>[PAN No.ACLPK 8400D]</b>
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	Shri Chandan Das, JCIT-DR
प्रत्यर्थी की ओर से/By Respondent	None
सुनवाई की तारीख/Date of Hearing	09-01-2019
घोषणा की तारीख/Date of Pronouncement	15-02-2019

**आदेश /ORDER**

**PER BENCH:-**

This Revenue's appeal for assessment year 2011-12 arises against the Commissioner of Income Tax (Appeals)-Jamshedpur's order dated 15.02.2017 passed in case No.10/JSR/2014-15 involving proceedings u/s 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Case called twice. None appears at the assessee's behest despite service of notice dated 31.12.2018 through RPAD mode. It is accordingly proceeded *ex parte*.

2. We notice at the outset that the CIT(A)'s order has deleted the protective addition of Rs.2,58,75,464/- as follows:

*"4.3 I have gone through the order of the learned AO as well as the written submission made by the appellant. The assessee is not correct to say that addition of Rs.2,60,60,574/- has been made. The amount includes the return of income of Rs.1,85,110/- also. Thus addition made is only Rs.2,58,75,464/- which will be*

consider here. It is fact mentioned hereinabove that from the Assessing Officer's order itself the AO did not concluded that the impounded books belongs to the assessee particularly when the assessee denied having the books pertaining to him and Rajesh Kumar whose books were impounded accepting the same. It appears that the authorization was not executed at proper places and if the place is proper the authorization should have been in the name of Rajesh Kumar. The assessee produces the copy of order etc., passed in the case of Shri Rajesh Kumar where the impounded books have been consider during assessment proceedings and the AO has made addition therein also. It is the accepted principle the same income cannot be taxed twice. Accordingly, taking the income in the hands of Naresh Kumar again in the hand of Rajesh Kumar is not correct. Moreover the AO did not submit any remand report despite called for on 17.12.2015 and again on 29.02.2016, I also find that once the assessee whose books of account was impounded or the revenue cannot ascertained it as that of Naresh Kumar, the assessee, any addition made is not proper, therefore addition made by the AO for Rs.2,58,75,464/- is hereby deleted.”

It is therefore sufficiently clear that the CIT(A) has taken note of the substantive addition made in the case of the searched assessee Shri Rajesh Kumar. We hold in these peculiar facts and circumstances that the same takes care of the impugned protective addition as well. We also make it clear that there is no material before us indicating the said substantive addition in case of searched assessee not to have attained not finality on substantive basis. We thus reject Revenue's instant sole substantive grievance on this count alone.

3. This Revenue's appeal is dismissed.

Order pronounced in accordance with Rule 34(4) of the ITAT Rules by putting on Notice Board on 15/02/2019

Sd/-

(लेखा सदस्य)

(Dr. A.L. Saini)

(Accountant Member)

Ranchi,

\*Dkp Sr.P.S

दिनांक:- 15/02/2019 Ranchi I

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. अपीलार्थी/Appellant-ITO Ward-2(5), 2, Bagmati Road,Northern Town, Jamshedpur-831001
2. प्रत्यर्थी/Respondent-Sri Naresh Kumar, Q. No.21, Road No.2, Gurudwarea Basti, Jamshedpur-831001
3. संबंधित आयकर आयुक्त / Concerned CIT Ranchi 4. आयकर आयुक्त- अपील / CIT (A) Ranchi
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, / DR, ITAT, Ranchi 6. गार्ड फाइल / Guard file.

By order/आदेश से,

/True Copy/

SR.PS, ITAT, RANCHI