

आयकर अपीलिय अधीकरण, खंडपीठ गुवाहाटी ,
*IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH, GUWAHATI*

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

ITA No.120/Gau/2017
Assessment Year :2013-14

ACIT, Circle-Silchar Aayakar Bhawan, PWD Road, Silchar-788001, Cachar, Assam	V/s.	Smt. Sweta Jain Banyan Tree Apartment, Rowden Street, Kolkata [PAN No.ACRPA 9449 C]
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	Shri Sandip Sengupta, JCIT-DR
प्रत्यर्थी की ओर से/By Respondent	Shri Sanjoy Mody, FCA
सुनवाई की तारीख/Date of Hearing	10-07-2019
घोषणा की तारीख/Date of Pronouncement	02-08-2019

आदेश /ORDER

PER BENCH:-

This Revenue's appeal for assessment year 2013-14 arises against the Commissioner of Income Tax (Appeals)-Shillong's order dated 29.03.2017 passed in case No. SIL-198/2015-16, involving proceedings u/s 143(3) r.w.s 153C of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. The Revenue's sole substantive grievance canvassing of the instant appeal seeks to revive the Assessing Officer's action adding an amount of Rs.1,00,95,000/- on account of enhancement of taxpayer's income on account of treating in potato.

3. We have given our thoughtful consideration to rival contentions. The assessee's paper book comprising of her returned income, computation stating business income of Rs.13,53,618/-, balance-sheet as well as trading account in potato stating gross profit of Rs.1,01,31,600/- stand perused. We proceed further to notice that CIT(A)'s detailed discussion deleting the impugned addition reads as under:-

"4.0 Ground No.2

The above ground is directed against addition of Rs.1,00,95,000/- on account of short disclosure of additional income in the return of income in compare to income disclosed during the course of search.

4.1 A search and seizure operation was conducted in the case of UFM Group of cases on 07.11.2012 and on subsequent dates. During the course of the said search, the appellant vide her letter dated 20.12/2012 addressed to Addl. DIT(Inv) has declared additional income of rs.3.15 crore which was claimed to have been earned from trading in potato, ginger etc. After going through the return of income filed by the appellant, the AO observed that she has disclosed net profit of rs.1,35,36,618/- in her trading, profit & loss account which also included income from other than trading in potato, ginger etc. whereas she has made profit of rs.2,83,34,940/- from trading in potato & ginger for the period 01.04.2012 to 27.10.2012 (mistakenly typed as 2013) and asked her to explain why the appellant has not declared her income truly & correctly in return of income. In reply to this query of the AO, the appellant explained that the net profit of Rs.1,35,36,318/- includes profit from trading in potato of Rs.1,01,341,600/- which is included in seized document marked NB-25. In addition to this, income of Rs.2,14,05,000/- was also declared as additional income in computation of total income on account of trading in ginger and broom. Therefore the appellant contend that as against income of Rs.2,83,34,940/- reflected in seized document marked NB-25, she actually disclosed income of rs.3,15,36,600/- (wrongly typed as Rs.3,15,35,600/-) in her return of income which is more than Rs.3,15,00,000/- declared during the course of the search. After considering this submission of the appellant, the AO held that the contention of the appellant cannot be accepted for the reasons, to quote, "Disclosure of additional income means disclosure over and above normal business income. The additional disclosure of income is from undisclosed source. When the assessee has already disclosed additional income of Rs.3.15 crore from undisclosed business of potato, this whole amount should have been shown in computation of total income. This amounts to retracting the already disclosed additional income." For the above reasons, the AO brought to tax the amount of difference between additional income disclosed during the course of search of Rs.3,15,00,000/- and the additional income of

Rs.2,14,05,000/- which was disclosed separately in computing of total income, which worked out to Rs.1,00,95,000/- and added the same to the income of the appellant.

4.2 The A/R of the appellant submitted before me that a search & seizure operation was conducted in the case of UFM group of cases on 07.11.2012 and on subsequent dates. During the course of the said search, page no. 40 of seized document marked NB-25 belonged to the appellant. A copy of the said document was as filed before me and it was pointed out that the same contains trading accounts of potato, brooms and ginger for the period 01.04.12 to 27.10.12. The said trading account reveals that appellant has earned income from trading in potato at Rs.1,01,31,600/- and from trading in ginger and broom at Rs.1,84,05,00/-, which totals to Rs.2,85,36,600/-. He also filed before me a copy of the appellant's letter dated 20.12.2012 addressed to the Additional DIT (Inv) and pointed out that in relation to the above trading income the appellant during the course of search declared total additional income of Rs.3.15 Cr. Thereafter a copy of computation of total income, Audited balance sheet, audited profit & loss account and audited trading account of additional income for the year under consideration of the appellant which were filed before the AO was filed before me and it was contended that the actual income disclosed by the appellant in her return of income on account of trading in potato, broom and ginger was Rs.3,15,36,600/-. The aforesaid disclosure apart from above trading profit of rs.2,85,36,600/- included Rs.30,00,000/- on account of initial investment in the said trading business. Thus, he claimed that there was absolutely no short disclosure of income in the return of income filed by the appellant. He pointed out that during the course of assessment proceedings, the AO was initially of the view that income of Rs.1,35,36,618/- only was disclosed by the appellant in his return of income which included income on account of trading in potato but no amount of income was disclosed on account of trading in ginger and broom and therefore, asked the appellant to explain why short disclosure was made. In reply thereto, the appellant pointed out that income of Rs.1,35,36,618/- includes income from trading in potato of Rs.1,01,31,600/- and besides this income, income of Rs.2,14,05,000/- was also disclosed separately in computation

4. It is sufficiently clear from a perusal of the assessee's paper book vis-à-vis the lower appellate finding extracted hereinabove that the assessee had already declared very nature of income in her return qua trading amount of Rs.3,15,35,600/-. We conclude in view of this clinching fact that CIT(A) has rightly deleted the addition in question by holding the same to be an instance

of double addition. We thus confirm the CIT(A)'s findings and decline the Revenue's sole substantive grievance.

5. This Revenue's appeal is dismissed.

Order pronounced in accordance with Rule 34(3) of the ITAT Rules by putting on Notice Board on 02/08/2019

Sd/-
(लेखा सदस्य)
(A.L.Saini)
(Accountant Member)
Guwahati,

Sd/-
(न्यायिक सदस्य)
(S.S.Godara)
(Judicial Member)

*Dkp

दिनांक:- 02/08/2019 गूवाहाठी ।

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

1. अपीलार्थी/Appellant-ACIT, Circle-Silchar, Aayakar Bhawan, PWD Road, Silchar-788001, Cachar, Assam
2. प्रत्यर्थी/Respondent-Smt. Sweta Jain Banyan Tree Apartment, Rowden Street, Kol-16
3. संबंधित आयकर आयुक्त गूवाहाठी / Concerned CIT Guwahati
4. आयकर आयुक्त- अपील / CIT (A) Guwahati
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, गूवाहाठी खंडपीठ / DR, ITAT, Guwahati
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

Sr. Private Secretary (on tour)
आयकर अपीलीय अधिकरण,
गूवाहाठी ।