

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI**

BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER

ITA NO.2838/MUM/2018 (A.Y: 2014-15)

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| Shri Srichand Satramdas Agicha 47, Victoria Road Mustafa Bazar, Byculla Mumbai – 400 010 PAN: ADHPA3448G | v. | Asst. Commissioner of Income Tax Central Circle - 8(2) Aayakar Bhavan, M.K. Road, Mumbai-400 020 |
| (Appellant) | | (Respondent) |

Assessee by : Shri Yadav Wadia
Department by : Shri D.G. Pansari

Date of Hearing : 21.06.2019
Date of Pronouncement : 28.08.2019

ORDER

PER C.N. PRASAD (JM)

1. This appeal is filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)-50, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 01.02.2018 for the A.Y.2014-15

2. Assessee has raised following ground in its appeal: -

"1. The CIT(A) erred in upholding an addition of Rs.21,04,427/- u/s 69C of Income Tax Act, 1961 made by the A.O. without verifying the facts of the case."

3. Briefly stated the facts are that, a search and seizure action u/s. 132 of the Act was carried out on 24.02.2014 at the premises of the assessee

and associates group concerns. The assessment was completed u/s.143(3) of the Act on 31.03.2016. In the course of the search, statement of Shri S. Vinodkumar, who is the Personal Assistant of Shri Siddharth Agicha was recorded u/s. 132(4) of the Act on 24.02.2014 according to which cash expenses were incurred by the group on the marriage on the directions of Mr. Siddharth Agicha Director of M/s.Associate Infratech (I). Pvt. Ltd. Assessing Officer records that these are the marriage expenses which were not recorded in the Books of Accounts. It is the observation of the Assessing Officer that the statement of Shri S. Vinodkumar was confronted to Shri Manohar Agicha and the statement from Shri Manohar Agicha was recorded on 24.02.2014 u/s.132(4) of the Act and he observed that Shri Manohar Agicha has stated that the above expenses were incurred out of cash drawings of various persons belonging to the group. Assessee was required to explain the same. Assessee stated that the marriage expenses of ₹.17,93,427/- have been duly recorded in assessee's regular Books of Accounts. Assessee in support of its contention that these expenses were recorded in the regular Books of Accounts furnished details of expenses, cash flow statements along with capital account, balance sheet etc.

4. Further, as regards to the investment of ₹.3,19,300/- made in purchase of land at Podhapur is concerned it was submitted that it had inadvertently considered drawings instead of capitalizing the same and details have been submitted by the assessee before the Assessing Officer. Not convinced with the submissions of the assessee the Assessing Officer treated the expenses of ₹.21,04,427/- as unexplained cash credits u/s. 69C of the Act. Ld.CIT(A) sustained the addition based on the findings of the Assessing Officer.

5. Before me, Ld. Counsel for the assessee reiterated the submissions made before the lower authorities.

6. Heard rival submissions, perused the orders of the Authorities below. On a perusal of the orders of the Authorities below, I find that the submissions and evidences produced by the assessee have not been gone into thoroughly. It is the submission of the assessee that the expenses have been recorded in the regular Books of Accounts and in support of its submissions assessee has produced Books of Accounts, details of expenses incurred, cash flow statements along with capital account, balance sheet etc., none of these evidences have gone into thoroughly by the lower authorities. The fact as to whether the assessee has recorded these expenses in the Books of Accounts have not brought on record by the lower authorities. In my considered opinion this issue

has to be examined denovo with reference to the Books of Accounts and the evidences furnished by the assessee in the course of the assessment proceedings. Thus, entire issue is remitted to the file of the Assessing Officer with a direction to examine denovo in accordance with law and the assessee is at liberty to produce necessary evidences in support of his contentions. Thus, this issue is restored to the file of the Assessing Officer for denovo examination in accordance with law, after providing adequate opportunity of being heard to the assessee.

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

Order pronounced in the open court on the 28th August, 2019

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER
Mumbai / Dated 28/08/2019
Giridhar, Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum