

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI**

BEFORE SHRI R.C. SHARMA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No. 5269/Mum/2018

(निर्धारण वर्ष / Assessment Years : 2008-09)

Shri Balachandra Pandurang Dalvi, B-19 Vasuki Rajuwadi, Vidyanagar, Mumbai.	बनाम/ Vs.	ITO 27(1)(2) Vashi Income Tax Office, Vashi
स्थायी लेखा सं./जीआइआर सं./	PAN/GIR No. :	AAMPD3092P
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से / Appellant by :	None
प्रत्यर्थी की ओर से/Respondent by :	Shri Akthar H Ansari, DR

सुनवाई की तारीख / Date of Hearing	04/11/2019
घोषणा की तारीख /Date of Pronouncement	13/11 /2019

आदेश / ORDER

PER R.C. SHARMA(A.M.)

This is an appeal by the assessee against the order of the Ld. CIT(A) for the A.Y 2008-09 in the matter of order passed u/s 143(3) r.w.s 147 of the Act. In this appeal assessee is aggrieved by the assessment framed without issue of notice u/s 143(2) of the Act after filing the return of income in response to notice u/s 148 of the Act.

2. Nobody appeared on behalf of the assessee in spite of issue and service of notice by RPAD. Assessee has also not filed any adjournment

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petition. Even on earlier occasion the appeal was fixed for hearing on 26.09.2019 nobody appeared on behalf of the assessee. Accordingly the Bench decided to dispose the appeal after hearing the ld. DR and considering material placed on record.

3. In this case I found that on receipt information to the effect that assessee has deposited cash of Rs. 26,90,000/- with bank of Borada, the A.O issued notice u/s 147 of the Act to find out the source of cash deposit. The A.O concluded after long discussion that sufficient opportunity was provided to the assessee but assessee has failed to prove the source of cash deposit. The assessee has also alleged framing of assessment without issue of notice u/s 143(2) of the Act.

4. By the impugned order the CIT(A) observed that at per para 6 of the assessment order AO asked the assessee to show cause vide order sheet entry dated 15.02.2016 why the cash deposits (subject matter of the assessment and appeal) and in response to the same, the assessee's AR attended on 22.02.2016 and filed submission vide letter dated 19.02.2016. From the assessment order it is also noted that one Mr. D.D Nanda, the assessee's counsel again appeared on 02.03.2016 and made submissions and explained the issue. It can therefore be said that there is no truth or force in the assessee's contention that the A.O has not issued any notices after filing the return in response to notice u/s 148. Ld. AR could not explain how the assessee's AR appeared without any notice by

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the AO. In view of these facts on record and on considering the submissions, the CIT(A) concluded that there is no force in the assessee's contention and therefore dismiss the ground raised.

5. After discussing in details, the ld. CIT(A) confirmed the addition on account of cash deposit in the bank and also rejected assessee's ground of not issuing any notice u/s.143(2).

6. I have gone through the orders of the authorities below and found that the notice u/s 143(2) of the Act was duly issued and served on the assessee. As per the findings recorded by the CIT(A), the Ld. AR of the assessee appeared before the A.O on 02.03.2016 and also made submission and explained the issue. Accordingly, I do not find any infirmity in the findings so recorded by the CIT(A) to the effect that notice u/s 143(2) was issued to the assessee. However, nothing was placed before us so as to persuade me to deviate from the finding recorded by the CIT(A).

7. In the result the appeal filed by the assessee is dismissed.

This Order pronounced in Open Court on 13/11/2019

Sd/-
(R.C. SHARMA)
ACCOUNTANT MEMBER

Mumbai, Dated 13/11/2019
KRK, PS

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आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)

आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Mumbai

2. Other Member...

6. Date on which the approved draft he Head Clerk.....