

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

**BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER AND  
SHRI S. RIFAUR RAHMAN, HON'BLE ACCOUNTANT MEMBER**

**ITA NO.5734/MUM/2019 (A.Y: 2014-15)**

Shri Suresh Menghraj Shroff Sheela Niwas Ramabai Chemburkar Marg Vile Parle (E), Mumbai -400057  <b>PAN: AAVPS3849Q</b>	v.	DCIT – 12(1)(1) Room No. 223, 2 <sup>nd</sup> Floor Aayakar Bhavan, Marine Lines Mumbai – 400020
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Assessee by</b>	:	<b>Shri Prakash Jotwani</b>
<b>Department by</b>	:	<b>Shri Vijay Kumar P. Menon</b>
<b>Date of Hearing</b>	:	<b>04.06.2021</b>
<b>Date of Pronouncement</b>	:	<b>02.09.2021</b>

**ORDER**

**PER C.N. PRASAD (JM)**

**1.** This appeal is filed by the assessee against order of the Learned Commissioner of Income Tax (Appeals)–20, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 29.07.2019 for the A.Y. 2014-15.

**2.** The only issue in the appeal is in respect of confirmation of addition of ₹.10,00,000/- made by the Assessing Officer as unaccounted cash u/s.69A of the Act.

**3.** Briefly stated the facts are that, assessee filed his return of income on 30.11.2014 declaring income of ₹.84,33,800/-. The assessment was completed u/s. 143(3) of the Act on 28.12.2016 determining the income at ₹.94,33,800/-. While completing the assessment the Assessing Officer made addition of ₹.10,00,000/- u/s. 69A of the Act. Assessee during the assessment proceedings explained that he has sold his car and received ₹.10,00,000/-. To substantiate the claim assessee submitted documents given by RTO showing NOC to transfer the car in the name of purchaser. However, the Assessing Officer disbelieved this document holding that it is an after-thought. Therefore, the Assessing Officer treated ₹.10,00,000/- found during the course of survey u/s. 133A of the Act as nothing but unaccounted cash of the assessee. On appeal the Ld.CIT(A) sustained the addition made by the Assessing Officer.

**4.** Ld. Counsel for the assessee submits that assessee "HUF" sold the car and it did not belong to assessee "Individual" but owned by assessee "HUF". Ld. Counsel for the assessee submits that assessee "HUF" sold the vehicle on 09.11.2013 and the profit on sale of car was also reflected in assessee "HUF" books. Referring to Page No. 7 of the Paper Book Ld.Counsel for the assessee submits that profit on sale of Car was

recorded in the books of assessee "HUF" at ₹.4,387/-. Ld. Counsel for the assessee submitted that this was accepted by the revenue.

**5.** Ld. Counsel for the assessee referring to Page No. 55 of the Paper Book which is the balance sheet of assessee "HUF" for the year ending 31.03.2012 submits that Mercedes Car appeared in the Books of Accounts of assessee "HUF". The book value of which was reflected at ₹.8,00,000/- and this car was sold on 09.11.2013 for ₹.10,00,000/- by assessee "HUF". Ld. Counsel for the assessee referring to Page No. 9 of the Paper Book which is the delivery note, submits that the details of time and date of sale of car was shown and the address of the purchaser was also given. Referring to Page No. 10 of the Paper Book, Ld. Counsel for the assessee submits that copies of PAN and Driving Licence of the purchaser was also furnished. It was submitted that all these details goes to shows that the transaction is genuine and belongs to assessee "HUF".

**6.** Ld. Counsel for the assessee further submits that during the course of survey u/s. 133A of the Act in Sun Vision Group ₹.43,27,7000/- was found in cash and the partner Shri Sheela Niwas gave an explanation as to the discovered cash in the course of survey itself and thus explanation cannot be treated an afterthought. All documents explaining the transaction had been duly submitted to the Assessing Officer and

explanations were given. Assessee himself is an advocate and had cooperated with the authorities. Ld. Counsel for the assessee further submits that the documents submitted by the assessee clearly shows that the car was purchased in the name of assessee "HUF" and that Shri. Suresh Menghraj Shroff and assessee "HUF" are two separate entities in the eyes of law. Ld. Counsel for the assessee submitted that at Page No. 12 of the Paper Book the Ledger account of car which was duly maintained and the profit on sale of car was declared in the books of assessee "HUF". Therefore, income was rightfully declared by the assessee in the hands of assessee "HUF" as the owner of the car. Therefore, it is submitted that since ₹.10,00,000/- has been rightfully declared by the assessee "HUF", provisions of section 69A of the Act in the case of assessee is not attracted.

**7.** On the other hand, Ld. DR strongly placed reliance on the orders of the Authorities below.

**8.** We have heard the rival submissions, perused the orders of the authorities below and the documents furnished before us. The documents furnished by the assessee clearly reflects that the car belongs to assessee "HUF" and not to the assessee "Individual". The assessee "HUF" has recorded in its Books of Accounts the profit on sale of the said car which

was sold by the assessee "HUF". The delivery note clearly shows the date and time when the car was sold and the name of the purchaser. On a perusal of the Assessment Order we noticed that even after receiving all the explanations and documentary evidences from the assessee the Assessing Officer has not carried out any enquiry rather he has suspected the documents and explanations furnished by the assessee as an afterthought without any basis and on surmises and conjectures. The evidences furnished by the assessee and the explanations thereon clearly shows that the asset "Mercedes Benz" car belongs to the assessee "HUF". Since the asset belongs to the assessee "HUF" no addition u/s.69A of the Act is warranted in the hands of the assessee. Thus, we direct the Assessing Officer to delete the addition made u/s. 69A of the Act. Grounds of appeal of the assessee are allowed.

**9.** In the result, appeal of the assessee is allowed.

Order pronounced on 02.09.2021 as per Rule 34(4) of ITAT Rules by placing the pronouncement list in the notice board.

Sd/-  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

Mumbai / Dated 02/09/2021  
Giridhar, Sr.PS

Sd/-  
**(C.N. PRASAD)**  
**JUDICIAL MEMBER**

**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**