

आयकर अपीलीय अधिकरण
मुंबई पीठ "एस एम सी", मुंबई
श्री विकास अवस्थी, न्यायिक सदस्य
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
आअसं. 6348/मुं/2019 (नि.व.2009-10)
ITA NO.6348/MUM/2019 (A.Y.2009-10)

ITO-20(1)(2),
Room No. 119, 1st Floor,
Piramal Chambers, Lalbaug,
Parel, Mumbai-400012.

..... अपीलार्थी /Appellant

बनाम Vs.

Smt. Geeta Ashokkumar Dave,
201, Om Riddhi Siddhi CHS,
122, B.S. Ambedkar Road,
Lalbaug, Mumbai-400012.

PAN: **ADPPD2017G**

..... प्रतिवादी /Respondent

अपीलार्थी द्वारा/ Appellant by : Sh. Sanjay J. Sethi
प्रतिवादी द्वारा/Respondent by : Sh. Karamchand C. Kankariya
सुनवाई की तिथि/ Date of hearing : 26/07/2021
घोषणा की तिथि/ Date of pronouncement : 04/10/2021

आदेश / ORDER

PER VIKAS AWASTHY, J.M:

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-32, Mumbai [hereinafter referred to as 'the CIT(A)'] ' dated 31.07.2019 for the Assessment Year (AY) 2009-10.

2. Sh. Sajjay J. Sethi representing the Department submitted that the assessment for Assessment Year (AY) 2009-10 in the case of assessee was re-

opened on the ground that the assessee has not disclosed amount of Rs. 33,60,000/- received on sale of shares of M/s Prraneta Industries Ltd. The Id. Departmental Representative (DR) submitted that the assessee had received pay out of Rs. 33,60,000/- against cash paid to one Shrish Chandrakant Shah. The Id. DR submitted that search action was carried out in the case of Shrish Chandrakant Shah and it was found that he was engaged in providing accommodation entries in respect of share capital, share premium, share application money, Short Term and Long Term capital gains, etc., against cash received from various parties/beneficiaries. The assessee is one of beneficiaries of accommodation entries provided by Shrish Chandrakant Shah. In First Appellate proceedings, the CIT(A) has reversed the findings of AO and hence, the Revenue is in appeal. The Id. DR submitted that the CIT(A) has failed to appreciate the fact that Shrish Chandrakant Shah has floated various companies through which he is providing accommodation entries to various persons.

3. Per contra, Sh. Karamchand C. Kankariya appearing on behalf of the assessee vehemently defended the impugned order. The Id. Authorized Representative (AR) submitted that during the period relevant to AY under appeal, the assessee has not entered into sale transaction of the shares of M/s Prraneta Industries Ltd. In fact, the assessee has purchased 1,00,000/- equity shares of the said company through BSE broker for Rs. 1,92,000/-, the AO has wrongly recorded the fact that the assessee has sold the shares of M/s Prraneta Industries Ltd. Further, there is no transaction of sale amounting to Rs. 33,60,000/- during the relevant period. The Id. AR prayed for upholding the findings of CIT(A) and dismissing appeal by the Revenue.

4. Submissions made by rival sides heard, orders of the authorities below examined. The solitary ground raised by the Revenue in appeal is against deleting addition of Rs. 33,60,000/- made by the AO in respect of bogus transaction with Shrish Chandrakant Shah. A perusal of the assessment order reveals that the AO has made addition of the aforesaid amount on the premises that there is a sale transaction of share during the period relevant to the AY under appeal. The amount has been received by the assessee as pay out against cash paid to Shrish Chandrakant Shah.

5. On the other hand, the CIT(A) after examining the facts has held that there was no such transaction carried out by the assessee during the Financial Year relevant to the AY under appeal. In fact, there was no transaction of sale of shares by assessee of M/s Prraneta Industries Ltd. The Id. DR has failed to controvert the findings of the CIT(A) on this issue. No documentary evidence has been furnished by the Revenue to substantiate that assessee has received the amount of Rs. 33,60,000/- on sale of shares of M/s Prraneta Industries Ltd. On the contrary, assessee has filed evidence before the CIT(A) to substantiate 1,00,000 equity shares of M/s Prraneta Industries Ltd. purchased by the assessee. In the absence of any cogent evidence, I find no reason to interfere with the order of CIT(A), hence, the same is upheld and appeal by the Revenue is dismissed, sans merit.

Order pronounced in the open court on **Monday**, the **04th** day of October, 2021.

Sd/-
(VIKAS AWASTHY)
न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई/Mumbai, दिनांक/Dated: /10/2021
SK, PS

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
6. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai