



was conducted u/s 133A of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') in the premises of sugar factory on 18.01.2012. A diary was found during the course of Survey on which, the name of assessee was found embossed. The diary contained entries of kick-backs received from various companies during the financial years 2005-06 to 2008-09. The assessee during the course of Survey admitted that the entries pertained to him and confirmed the receipt of kick-backs and admitted voluntary income for A.Ys. 2006-07 to 2008-09. This information was passed on to the office of the AO, who issued notice u/s 148 of the Act. However, an affidavit was filed before the JMFC, Jalgaon retracting the earlier admission in regard to the kick-backs received by him. The AO made an addition of Rs.1,50,000 on the basis of admission of the receipt of kick-backs, which was later on retracted. The Id. CIT(A) affirmed the addition.

4. I have heard the Id. DR and gone through the relevant material on record. There is no appearance from the side of the assessee despite service of notice. It is seen that the assessee admitted voluntary income in regard to kick-backs during the course of Survey, which pertained to certain years, including, A.Y.

2006-07. During the course of assessment proceedings for the A.Y. 2006-07 also, the assessee retracted the admission but the AO made the addition for the said sum of Rs.1,02,25,000. When the matter came up before the Tribunal, it, set aside the assessment order and remitted the matter to the file of AO for fresh decision in the light of certain directions. The ld. DR fairly conceded that the facts and circumstances of this year were *mutatis mutandis* similar to the A.Y. 2006-07. Respectfully following the order of the Tribunal in the assessee's own case for the A.Y. 2006-07, I set aside the impugned order and remit the matter to the file of the AO for deciding the issue afresh as per law in conformity with the directions given by the Tribunal for the A.Y. 2006-07. Needless to say, the assessee will be accorded a reasonable opportunity of hearing.

5. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the Open Court on 3<sup>rd</sup> February, 2022.

Sd/-  
**(R.S.SYAL)**  
**VICE PRESIDENT**

पुणे Pune; दिनांक Dated : 3<sup>rd</sup> February, 2022  
GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-2, Kolhapur
4. The Pr. CIT-2, Kolhapur
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे /  
DR 'SMC', ITAT, Pune
6. गार्ड फाईल / Guard file

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

Senior Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	02-02-2022	Sr.PS
2.	Draft placed before author	03-02-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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