

**IN THE INCOME TAX APPELLATE TRIBUNAL
“RAJKOT” BENCH, RAJKOT**

[Conducted through E-Court at Ahmedabad]

**BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMEBR
& SHRI WASEEM AHMED, ACCOUNTANT MEMEBR**

आयकर अपील सं./I.T.A. No. 193/Rjt/2016

(निर्धारण वर्ष / Assessment Year : 2006-07)

Asstt. Commissioner of Income Tax Central Circle-1, Rajkot	बनाम/ Vs.	Shri Aniruddhsinh J. Solanki Flat No.2, Jyoti Apartment, Nirmala Convent Road, Rajkot
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AFYPS6990L		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/Appellant by :	Shri James Kurian, CIT.D.R.
प्रत्यर्थी की ओर से / Respondent by :	Shri Rajiv Doshi, A.R.

सुनवाई की तारीख / Date of Hearing	02/02/2022
घोषणा की तारीख /Date of Pronouncement	04/02/2022

ORDER

PER MAHAVIR PRASAD, JM:

The captioned appeal has been filed at the instance of the Revenue against the order of the Commissioner of Income Tax (Appeals)-1, Rajkot ('CIT(A)' in short) vide Appeal No. CIT(A)-I/Rjt/0101/14-15, dated 28.03.2016 arising in the assessment order dated 24.03.2014 passed by the Assessing

Officer (AO) under s. 143(3) r.w.s. 147 of the Income Tax Act, 1961 (the Act) concerning AY. 2006-07.

2. The grounds of appeal raised by the Revenue read as under:

- “1. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in law and/or on facts in deleting addition of Rs.5,88,43,806/- on account of income from undisclosed sources.*
2. *On the facts and in the circumstances of the case and in law, the CIT(A) ought to have upheld the order of the A.O.”*

3. The facts of the case are that the case was reopened on the basis of an information that the assessee has 'during the relevant previous year deposited cash in aggregate of Rs.5,88,43,806/- in his current A/c. No.015305002632 with ICICI Bank Ltd., Rajkot. With a view to verify the quantum of cash deposits the AO called for bank statement from ICICI Bank Ltd. u/s.133(6) on perusal of which it was noticed that the assessee has deposited huge amount of cash in aggregate of Rs.5,88,43,806/- on various dates in his above bank account. During the course of assessment proceedings the assessee in his statement recorded on oath as well as in response to the show cause notice submitted that the cash deposits in aggregate of Rs.5,88,43,806/- made in his A/c. No.015305002632 belongs to the Ceramic Industries/Tiles Manufacturing Companies of Morbi who are the clients of Shaileshbhai Marvania. It was also stated in his submission that Shri Shaileshbhai was paying him commission @ 0.025 per 1 lac. The AO has mentioned in the assessment order that while recording statement on oath the

assessee has deposed that he was receiving commission: @ 0.25 per 1 lac whereas in his submission he stated that he was receiving commission @ 0.025 per 1 lac and thus the contradictory statement leads to believe that the intention of assessee is not bonafide. Therefore the AO was of the view that assessee has failed to explain the source of cash deposits made of Rs.5,88,43,806/- in his above-mentioned bank account. As such the said deposits were treated as assessee's income from undisclosed sources and added back to the total income.

4. Thereafter, the assessee preferred first statutory appeal before the learned CIT(A) who partly allowed the appeal of the assessee.

5. Now, the Revenue is before us.

6. We have gone through the relevant records and impugned order. The question before us is whether cash depositing in aggregate amount of Rs.5,88,43,806/- made in his A/c. No.015305002632 belongs to the Ceramic Industries/Tiles Manufacturing Companies of Morbi who are the clients of Shaileshbhai Marvania or not. In this case, assessee is working as a shroff and as per CIT(A) it is not a disputed fact. The shroff acts as a channel between two parties. It is apparent from the bank account in question that the cash were deposited and withdrawn from time to time. During the proceedings, the assessee recorded his statement and categorically explained the nature of transaction that he is getting a commission at Rs.0.25 paise on transaction of Rs. one lakh. In our considered opinion,

in such a case, all deposits in the bank account cannot be treated as income of the assessee. During the assessment proceedings, the learned AO came to know that assessee is working as shroff which means commission agent. After going through the bank statement, it was revealed that cash deposited and withdrawals were made regularly during the year under consideration. We do not find any ambiguity in the order passed by the learned CIT(A) and he has rightly directed the learned AO to compute the commission income @ 0.25 paise per lakh deposited in the bank account.

7. In the result, the appeal of the Revenue is dismissed.

This Order pronounced in Open Court on 04/02/2022

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER
Ahmedabad: Dated 04/02/2022

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER

True Copy

S.K.SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

Deputy/Asstt. Registrar
ITAT, Rajkot