

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

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER &
SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

ITA No.1065/Mum/2019 (A.Y 2008-09)

Mannat Properties Private Limited, 403,Commerce House, 140, N.M. Road, Fort – 400001	Vs.	ITO Ward 2(2)(3), Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAECM4134E		
Appellant	..	Respondent

Appellant by :	None
Respondent by :	Shri Shankar Sr. A.R, CIT

Date of Hearing	22.02.2022
Date of Pronouncement	28.02.2022

आदेश / O R D E R

PER AMARJIT SINGH, AM:

The present filed by the assessee is directed against the order passed by the CIT(A)-5, Mumbai, which in turn arises from the assessment order passed by the A.O u/s 144 r.w.s 147 of the Income Tax Act, 1961, dated 23.03.2016 for A.Y. 2008-09. The assessee has assailed the impugned order on the following grounds before us:

- “1. In the order passed u/s 250 of the Income-tax Act. 1961. the Learned CIT(A) erred in confirming the addition Rs.1,00,000/- u/s 69 of the Income Tax Act. 1961 since it was introduced by way of a cash deposit in the bank account of Shri Ghewarchand B Nahar, Director' of the Appellant

which was then transferred to Mr. Ghewarchand B. Nahar. The Net Worth of its Director Shri Ghewarchand Nahar is Rs. 1,05,97,584/- and on the relevant day when the cash is deposited, the Director has more than Rs 1,00,000/- in cash balance. The Director paid the said amount through cheque to the Appellant Company as a Loan from Director. The said amount should not to be treated as unexplained cash credits and the said amount should not be added to the Income of the Appellant.

2. *In the order passed u/s 250 of the Income-tax Act, 1961, the Learned CIT(A) erred in confirming the disallowance of Rs. 4,50,000/- of Purchases which were paid for in cash. The Learned CIT (A) ought to have appreciated that although the payments for Purchases have made in Cash they are well within the limits prescribed in Section 40A(3) of the Income-tax Act, 1961. The said amount should not be added to the Income of the Appellant.*
3. *The Appellant craves leave to add, to alter, amend, modify or delete any of the grounds of appeal.”*

2. The fact in brief is that during the course of assessment as per office record the assessing officer observed that the assessee had not filed return of income during the year under consideration. Information was received from ITO-21(1)(1) on 04.12.2014 that assessee was confirming party as per agreement dated 23.12.2017 in respect of sale of land situated at Raigad District Maharashtra. As per agreement dated 28.12.2007 the market value of the property was Rs.78,98,000/- and its purchase price was Rs. 25,00,000/-. Based on the information received the assessing officer has issued letter dated 18.12.2014 regarding filing of return of income, however no response was received from the assessee, therefore, the assessing officer had reopened the case and notice u/s 148 of the Act was issued on 04.03.2015. In spite of giving a number of opportunities the assessee has not made any compliance during the course of assessment proceedings before the assessing officer, therefore, assessing officer has completed the assessment on the basis of material on record and information obtained from the Oriental Bank of Commerce, wherein assessee had maintained its bank account. The total

income as per order u/s 144 r.w.s 147 of the Act, dated 23.03.2016 was assessed at Rs.77,75,780/-.

3. Aggrieved, the assessee has filed appeal before the ld. CIT(A). The ld. CIT(A) has partly allowed the appeal of the assessee. The issue on which the instant appeal is filed by the assessee are adjudicated ground wise as under:

1st Ground of appeal:

Confirming the addition of Rs.1,00,000/- u/s 69 of the Act.

4. During the course of assessment the assessing officer has issued notice u/s 133 sub-section (6) of the Act to the Oriental Bank of Commerce, Fort Branch, Mumbai and obtained the statement of the assessee's bank account No. 00231011000691 and noticed that there was credit of Rs.33,81,000/- in the assessee's bank account. In this regard, the A.O observed that in the profit and loss account of the assessee there was only transaction on sale of land to the amount of Rs.25,00,000/- therefore, in the absence of any explanation and evidences from the side of the assessee, the assessing officer has disallowed the difference of Rs.8,81,00,000/- [Rs.33,81,000/- (-) Rs.25,00,000/-] as unexplained credit u/s 69 of the Act and added to the total income of the assessee. During the course of appellate proceedings before the ld. CIT(A) the assessee has filed additional evidences i.e copy of loan confirming from the director i.e Mr. Ghewarchand B. Nahar and his bank statement to support his claim that the credit appearing in the assessee's bank account was out of loan received from the said director. The ld. CIT(A) has deleted the addition except Rs.1,00,000/- transferred

on 06.12.2007 from the bank account of director wherein equal amount was introduced by way of cash.

2nd Ground of appeal:

Confirming the disallowance of Rs.4,50,000/- of purchases:

5. During the course of assessment the A.O noticed that assessee has debited Rs.14,98,650/- as purchases. In spite of giving a number of opportunity during the course of assessment the A.O has not made any compliance before the assessing officer to explain the purchases made with relevant supporting evidences. Therefore, the A.O has disallowed the amount of Rs.14,98,650/- for want of verification and added to the total income of the assessee. The assessee has filed the appeal before the Id. CIT(A). During the course of appellate proceedings before the Id. CIT(A), the assessee has filed additional evidences on which remand report was called from the assessing officer. The Id. CIT(A) has considered supporting evidences furnished by the assessee i.e copy of invoices raised by the seller and payment made by account payee cheques etc. and deleted the addition to the extent of Rs.10,48,650/-. In respect of balance purchases of Rs.4,50,000/- the assessee claimed that same were purchased in cash but for want of relevant proper evidences the Id. CIT(A) has confirmed the disallowance to the extent of cash purchases amount of Rs.4,50,000/-.

6. During the course of appellate proceedings before us neither anybody has attended from the side of the assessee nor furnished any written submission. On the perusal of record it is observed that this case was listed for hearing for more than 9 occassion and a number of time nobody has made compliance from the side of the assessee. The Id. D.R.

supporting the order of the lower authorities. Therefore, the issue in the appeal of the assessee are adjudicated after hearing the D.R. and the material on record.

7. We have perused the finding of the ld. CIT(A) given at para 8.4 of the assessment order wherein the ld. CIT(A) has elaborately discussed the submission of the assessee on coming to the conclusion that neither during the course of assessment proceedings nor during the course of appellate proceedings the assessee has explained the source of amount of Rs.1,00,000/- transferred from the bank account of the director wherein equal amount was introduced by way of cash. Even during the course of appellate proceedings before us neither assessee has attended nor furnished any relevant supporting detail, therefore, we don't find any error in decision of ld. CIT(A), accordingly, this ground of appeal of the assessee stand dismissed.

Regarding sustaining the disallowance of Rs.4,50,000/- of unexplained purchases made in cash without retreating the fact as elaborated above in this order we observe that assessee has not made any compliance during the course of assessment proceedings before the assessing officer. However, it has filed additional evidences before the ld. CIT(A) during the course of appellate proceedings. The ld. CIT(A) has called the remand report from the assessing officer and taken into consideration the relevant supporting evidences i.e copy of invoices and detail of payments, however the assessee could not prove the genuineness of such cash purchases with relevant supporting evidences. After considering the detailed finding of the ld. CIT(A) elaborated at para 10.4 of the assessment order we consider that assessee has failed to prove the genuineness of cash purchase amount of Rs.4,50,000/- in

spite of providing due opportunities during the course of assessment and appellate proceedings. Even during the course of appellate proceedings before us the assessee has neither attended nor furnished any relevant evidences to disprove the finding of the Id. CIT(A). Therefore, considering the detailed finding of the Id. CIT(A) we don't find any infirmity in the decision of Id. CIT(A), therefore, this ground of appeal of the assessee is also dismissed.

8. Resultantly, the appeal of the assessee is dismissed.

Order pronounced in the open court on 28.02.2022

Sd/-
(SANDEEP SINGH KARHAIL)
Judicial Member

Sd/-
(AMARJIT SINGH)
Accountant Member

Place: Mumbai

Date: 28.02.2022

Rohit, PS

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

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

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.