

IN THE INCOME TAX APPELLATE TRIBUNAL 'B' BENCH, PUNE

**SHRI R.S. SYAL, VICE PRESIDENT
AND
SHRI PARTHA SARATHI CHAUDHURY, JM**

I.T.A. No. 1765/PUN/2018 : A.Y. 2015-16

M/s. Shubhmangal Constructions,
326 Mahatma Gandhi Road,
Ashok Vijay Complex, 3rd floor, Camp,
Pune-411 001.

PAN: AATFS8346L

: Appellant

Vs.

The I.T.O. Circle 7, Pune.

: Respondent

Appellant by : Shri Suhas Bora
Respondent by : Shri M.G. Jasnani

Date of Hearing : 02-05-2022

Date of Pronouncement : 06-05-2022

ORDER

PER PARTHA SARATHI CHAUDHURY, JM

This appeal preferred by assessee emanates from order of the Commissioner of Income Tax(A)-5, dated 21-06-2018 for A.Y. 2015-16 as per the grounds of appeal on record.

2. The assessee is a partnership firm engaged in the business of promoter and builder. The assessee filed its return of income for the year under consideration on 29-09-2015 declaring total income at Rs. 64,10,460/-. The assessee has claimed payment of Rs. 21,00,000/- to Shri Anna Lalu More as a part of compensation to surrender rights over land at S. No. 118A, Parvati, Pune. The A.O issued summons u/s 131 of the Income-tax Act, 1961 (hereinafter referred to as "the Act" for short) to Shri Anna Lalu More and recorded his statement who has confirmed the receipt of Rs. 21,00,000/- but through bearer cheques. According to the A.O, there was violation of provisions of sec. 40A(3A) of the Act which provides for payment in excess of

Rs. 20,000/- in a day made otherwise than account payee cheque or account payee bank draft. Not being satisfied with the explanation offered by said Shri Anna Lalu More, the A.O proceeded to make the addition of Rs. 21,00,000/- as deemed income as profits from business u/s 40A(3A) of the Act.

3. During the first appellate proceedings, the assessee re-iterated its submissions. The assessee has also taken a plea that the payment or amount was not claimed as expenditure either in F.Y. 2012-13 or in the year under consideration and therefore, sec. 40A(3A) of the Act was not applicable. The Id. CIT(A) therefore, directed the A.O to verify the contention of the assessee and take necessary action in accordance with law.

4. At the time of hearing, the Id. Counsel for the assessee submitted that till date, the A.O has not complied with the directions of the Id. CIT(A) contained in his order dated 21-06-2018. The only prayer made by the Id. Counsel for the assessee before us is that the A.O be directed to give effect to the order of the CIT(A) expeditiously. In reply, the Id. .D.R conceded to the prayer made by the Id. Counsel for the assessee.

5. Having heard the parties, we agree with the findings of the Id. CIT(A) who directed the A.O to verify the contention of the assessee and take necessary action in accordance with law. We therefore, direct the A.O to give effect to the order of the Id. CIT(A) as expeditiously as possible after complying with the principles of natural justice.

6. In the result, the **appeal of the assessee is dismissed.**

Order pronounced in the open Court on this 06th day of May 2022.

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

sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Pune; Dated, this ____ day of May 2022
Ankam

//// TRUE COPY ////

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The CIT (A)-12 Pune
4. The Pr. CIT Central, Nagpur
5. The D.R. ITAT 'B' Bench, Pune.
5. Guard File

BY ORDER,

Sr. Private Secretary
ITAT, Pune.

		Date	
1	Draft dictated on	05-05-2022	Sr.PS
2	Draft placed before author	05-05-2022	Sr.PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS	09-05-2022	Sr.PS
6	Kept for pronouncement on	09-05-2022	Sr.PS
7	Date of uploading of order	09-05-2022	Sr.PS
8	File sent to Bench Clerk		Sr.PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		