

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Shri Shamim Yahya (AM)

I.T.A. No. 5393/Mum/2019 (A.Y. 2014-15)

Sanwalchand Udaychand Bafna HUF 7-A, B-Wing, Siddick Ibrahim Mansion, D.B. Marg, Grant Road Mumbai-400 007. PAN : AASHS8612J (Appellant)	Vs.	ITO-19(3)(2) 2 nd Floor Matru Mandir Grant Road Mumbai-400 007. (Respondent)
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Assessee by	None
Department by	Ms. Usha Gaikwad
Date of Hearing	25.04.2022
Date of Pronouncement	02.05.2022

ORDER

This appeal by the assessee is directed against the order of learned CIT(A) dated 6.6.2019 pertains to A.Y. 2014-15.

2. The issue raised is that learned CIT(A) erred in confirming the addition of Rs. 3,36,195/- under section 68 of the I.T. Act.

3. Brief facts of the case are that the Assessing Officer made addition as unexplained credit for a sum of Rs. 3,36,195/- received from M/s. Balaji Builders. The learned CIT(A)

4. Learned CIT(A) confirmed the same by holding as under :

5.2 I have duly considered the submissions and contentions of the assessee as also the order of the AO. In course of the appellate proceedings, the assessee submitted that it had advanced a loan of Rs. 10 lakhs to M/s. Balaji Builders in the year relevant to A.Y. 2007-08. On this loan amount, it received interest in the years relevant to A.Ys. 2007-08 and 2008-09 which was duly offered for taxation. However, from A.Y. 2009-10 onwards, M/s. Balaji Builders stopped making the payments of interest. However, the

assessee continued to offer the interest income on accrual basis on the said loan even in the subsequent years. It was contended that during the relevant year, M/s. Balaji Builders paid interest of Rs. 3,36,195/- in cash which was duly offered by it for taxation. Accordingly the assessee contended that by making the said addition of Rs. 3,36,195/-, the AO has effectively made a double addition considering that the same was already offered as its income for the relevant year.

5.3 The contentions of the assessee have been duly considered. From the copy of the break-up of the gross interest received by the assessee of Rs. 9,14,538/- during the relevant year, it is noted that the interest related to M/s. Balaji Builders is of Rs. 3,08,395/- and not Rs. 3,36,195/-. This fact is also confirmed by the ledger account of M/s. Balaji Builders as per which the interest income accrued for the relevant year is of Rs. 3,08,395/- and not Rs. 3,36,195/-. Thus, there is a factual mismatch in the contentions of the assessee. Therefore, no infirmity is found in the action of the AO of making an addition of Rs. 3,36,195/- being the unexplained amount credited in the book Accordingly, Ground No. 1 of the appeal is dismissed.

5. Against the above order the assessee is in appeal before the ITAT.

6. I find that from the order of learned CIT(A) it is evident that it is assessee's contention that the amount received is actually arrears of interest. Hence, the sum cannot be considered as cash credit. The learned CIT(A) despite noting these facts has mechanically confirmed Assessing Officer's order without any verification. However, I note that these facts need to be examined by Assessing Officer. Hence all the facts need to be examined at the level of Assessing Officer. Hence, I remit the issue to the file of the Assessing Officer to consider the issue afresh and decide the issue as per law.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 02.05.2022.

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 02/05/2022

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

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BY ORDER,

(Assistant Registrar)
ITAT, Mumbai