

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI S.S.GODARA, JM
AND SHRI DR. DIPAK P. RIPOTE, AM

आयकर अपील सं. / ITA No.757/PUN/2016
निर्धारण वर्ष / Assessment Year : 2004-05

Sou. Jayashree Ulhas Bagul,
12, Shivdarshan, Parvati,
Pune – 411 009
PAN : AAJPB8535B

.....अपीलार्थी / Appellant

बनाम / V/s.

ACIT, Cen.Circle 2(1), Pune

.....प्रत्यर्थी / Respondent

Assessee by : Mrs. Deepa Khare
Revenue by : Shri S. P. Walimbe

सुनवाई की तारीख / Date of Hearing : 21.04.2022
घोषणा की तारीख / Date of Pronouncement : 12.05.2022

आदेश / ORDER

PER S. S. GODARA, JM :

1. This assessee's appeal for A.Y. 2004-05 is directed against the CIT(A) - 12, Pune's order dated 21/01/2016 passed in case No. PN/CIT(A)-12/ACIT, Cen- Cir-2(1)/69/Tr.in/2009-10 involving proceeding u/s. 153(A) r.w.s.143(3) of the Income Tax Act, 1961 ; in short "the Act.

Heard both the parties. Case file perused.

2. Coming to assessee's substantive grievance that both the lower authorities have erred in law and on facts in making undisclosed income addition of Rs.1,29,27,333/- in the course of assessment dated 29.12.2006 followed by the alleged further enhancement at Rs.1,54,49,724/- in the CIT(A)'s order, it emerges that there is hardly need for us to delve deeper in the relevant factual matrix. A perusal of the assessment order herein indicates this is an assessment framed u/s. 153(A) r.w.s.143(3) of Act. The search in question is dated 24.11.04. Both the learned representative took us to the Assessing Officer's detailed discussion in para 2 on page 3 of the assessment order indicating the assessee to have sold shares of M/s. Impulse Engineering Export Pvt. Ltd. to M/s Parth group represented by Shende family. There is further no dispute that the learned lower authorities had allegedly come across an MOU between the assessee/co-vendor alongwith Mrs. Sheetal Sanjay Nikam & Mrs. Surekha Sudhakar Jadhavar (to the extent of 1/3 share each) for actual sale consideration of Rs.4,65,88,000/- i.e. her share coming to Rs.1,55,29,333/- than that declared to the extent to Rs.26 lacs only. It is the forgoing corresponding differential amount of Rs.1,29,29,333/- that has been treated as assessee's undisclosed income by the Assessing Officer after placing reliance of above stated MOU as well as the search statement(s) recorded u/s. 132(4) of the Act.

3. Mr. Walimbe vehemently argued that the impugned addition is very much based on the MOU found and seized as well as assessee's search statement indicating her to have received the on-money in issue of Rs.1,29,29,333/- as per the relevant case records. This MOU at page 16 onwards in the paper book rather suggests to the contrary wherein none of

the parties had even affixed their signatures or thumb impression so as to constitute a valid agreement as per the Indian contract Act 1872. We fail to understand as to how such an unsigned document by concerned parties could be treated as a binding agreement in absence of signatures or thumb impressions creating any right or liability in either's favour.

4. Learned DR at this stage placed reliance on the lower authorities action even offering cross-examination and opportunities to the taxpayer. We refer to CBDT's twin circulars dated 10.03.03 and 10.12.2014 that mere search statements, in the nature of admissions and confessions, do not carry any significance in absence of supportive material which nowhere exists in the instant case. We therefore reject revenue's arguments placing reliance on CIT(A) elaborated discussion for these precise reasons to delete the impugned undisclosed income addition of Rs.1,29,29,333/- as well as the enhanced component (supra) in issue before us. Ordered accordingly.

5. This assessee's appeal is allowed in above terms.

Order pronounced in the Open Court on this 12th day of May, 2022.

Sd/-

Sd/-

(DR.DIPAK P.RIPOTE)

(S.S. GODARA)

लेखा सदस्य/ **ACCOUNTANT MEMBER**

न्यायिक सदस्य/**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 12th May, 2022.
Ashwini

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-12, Pune.
4. The Pr.CIT, Central,Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File. आदेशानुसार / BY ORDER,

// True Copy //

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

1	Draft dictated on	21.04.2022	
2	Draft placed before author	10.05.2022	
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4	Draft discussed/approved by Second Member		
5	Approved Draft comes to the Sr. PS/PS		
6	Kept for pronouncement on		
7	Date of uploading of Order		
8	File sent to Bench Clerk		
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		