

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE
BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.499/PUN/2021

निर्धारण वर्ष / Assessment Year : 2010-11

Ashokkumar Kachrual Luniya, 3, Ganesh Papers, Soni Complex, Jalna Maharashtra-431 203 PAN : AAHPL2886L	Vs.	ITO, Ward-1, Jalna
(Appellant)		(Respondent)

Appellant by Shri B.D. Bhide
Respondent by Shri Arvind Desai
Date of hearing 26-05-2022
Date of pronouncement 30-05-2022

आदेश / ORDER

PER S.S. GODARA, JM :

This assessee's appeal for AY 2010-11 arises against the National Faceless Appeal Centre, Delhi's order dated 16-09-2021 passed in case No. CIT(A), Aurangabad-1/10011/2015-16 involving proceedings under Section 143(3) r.w.s.147 of the Income Tax Act, 1961 in short the Act.

Heard both the parties. Case file perused.

2. Coming to the assessee's sole substantive grievance that both the lower authorities have erred in law and on facts in making on-money payment addition of Rs.2,70,000/- in issue, it transpires during the course of hearing and more particularly from a perusal of the assessment discussion dated 27-03-2015 that the impugned addition has arisen on the basis of the statement of vendor Rajesh Bhawandas Soni admitting the same to have been received from this taxpayer. Suffice to

say, the lower appellate authority has confirmed the assessment findings.

3. I have given my thoughtful consideration to rival pleadings and find force in assessee's grievance. This is for the reason that apart from placing reliance on the vendor's self-styled admission made during assessment, learned departmental authorities have not found or seized any incriminating document or cogent supportive evidence regarding on money at all. The Revenue's vehement reliance on the foregoing vendor's statement alone hardly carries any weight therefore once such an admission or confession etc, as the case may be, does not hold good even in section 132 search as well as section 133 survey action in light of the CBDT's twin circulars dated 10-03-2013 and 18-12-2014. I also deem it appropriate to quote Section 292C of the Act drawing presumption on correctness of the contents qua the seized documents only than an oral statement as is the case in the instant appeal. I accordingly hold that both the lower authorities have erred in law and on facts in making the impugned on-money addition of Rs.2,70,000/-. The same stands deleted.

4. This assessee's appeal is allowed.

Order pronounced in the Open Court on 30th May, 2022.

Sd/-

(S.S.GODARA)
JUDICIAL MEMBER

पुणे Pune; दिनांक Dated : 30th May, 2022
Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The NFAC, Delhi
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "SMC"
/ DR 'SMC', ITAT, Pune;
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

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

		Date	
1.	Draft dictated on	26-05-2022	Sr.PS
2.	Draft placed before author	27-05-2022	Sr.PS
3.	Draft proposed & placed before the second member	--	JM
4.	Draft discussed/approved by Second Member.	--	JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		