

**IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "SMC", PUNE**

**BEFORE SHRI S. S. GODARA, JUDICIAL MEMBER**

Sl. No.	ITA No.	Name of Appellant	Name of Respondent	Asst. Year
1	713/PUN/2021	Ujwala Nilesh Chechani, Plot No.343 K 517, Priyadarshani Colony, Sambhaji Nagar Road, Jalna- 431203. PAN : AGQPC2630N	ACIT, Circle-1, Aurangabad.	2012-13
2	714/PUN/2021	Archana Anil Chechani, Plot No.B-76, Near Balaji Mandir, Sambhaji Nagar, Jalna- 431203. PAN : AFSPC1874M	ACIT, Circle-1, Aurangabad.	2012-13
3	715/PUN/2021	Anjali Atish Chechani, Plot No.B-76, Near Balaji Mandir, Sambhaji Nagar, Jalna- 431203. PAN : AGOPC5108R	ACIT, Circle-1, Aurangabad.	2012-13
4	716/PUN/2021	Mrs. Ramkanwar S. Chechani, Plot No.343 K 517, Priyadarshani Colony, Sambhaji Nagar Road, Jalna- 431203. PAN : ADYPC2436R	ACIT, Circle-1, Aurangabad.	2012-13

Assessee by : None  
Revenue by : Shri Arvind Desai  
Date of hearing : 25.05.2022  
Date of pronouncement : 31.05.2022

**आदेश / ORDER**

**PER S. S. GODARA, JM:**

These four assessee's as many appeals; for assessment year 2012-13 arise against the CIT(A)-12, Pune's separate orders; all

dated 29.10.2021, passed in case nos. ITBA/APL/S/250/2021-22/103665520(1), ITBA/APL/S/250/2021-22/1036654677(1), ITBA/APL/S/250/2021-22/1036654815(1) and ITBA/APL/S/250/2021-22/1036654527(1); respectively involving proceedings u/s 144 r.w.s. 147 of the Income Tax Act, 1961; in short the Act.

Cases called twice. None appears at assessee's behest. They are accordingly proceeded *ex-parte*.

2. It emerges during the course of hearing that all the instant appeals have arisen as a result of the department's search action dated 02.05.2013 conducted involving M/s. Mantri Group of Jalna. The departmental authorities appear to have come across various seized documents (details given in all assessment orders dated 08.12.2017) which made the Assessing Officer to set section 148/147 mechanism in motion culminating in section 68/69 unexplained cash deposits and investments addition; as the case may be, involving varying sum(s) in these four cases.

3. This is what leaves all these assessee's aggrieved raising three folded arguments challenging validity of section 148/147 proceedings, correctness of the forgoing impugned addition(s) on merits as well as interest computation u/s 234A, 234B and 234C of the Act.

4. I have given my thoughtful consideration to first and foremost issue raised herein regarding validity of impugned section 148/147 proceedings. The assesseees plead in their respective grounds that it is only section 153C of the Act which comes into operation when any incriminating evidence is found and seized during the course of search and therefore, both the learned lower authorities have erred in law and on facts in taking recourse to the impugned reopening mechanism. I find no merit in the assesseees' instant legal ground. It is made clear first of all that the search herein is dated 02.05.2013. The relevant statutory expression applicable in section 153C at that point of time read "belongs or belong to a person other than the person referred to in section 153A". There is further no dispute that the legislature amended the same vide Finance Act, 2015 w.e.f. 1.06.2015 adding "pertains or pertain to ..... "relates to" which does not apply *qua* the earlier searches with retrospective effect. This is not the assesseees' case that any foregoing incriminating material in-fact belonged to them as per the statutory provision applicable on the date of search u/s 153C of the Act. I accordingly reject the assesseees' instant identical legal ground in all these four cases.

5. Next comes the second issue of correctness of unexplained deposits and investment additions made in all these cases. It is an

admitted fact that these assesseees had been afforded sufficient opportunities during the course of reassessment proceedings to explain source regarding both the foregoing issues. They had not even filed their returns before the Assessing Officer. A perusal of the assessment discussion in “lead” appeal ITA No.713/PUN/2021 suggests that the Assessing Officer had not only issued section 142(1) notices on various occasions but also he initiated section 271(1)(b) penalty proceedings alleging non-cooperation. This is coupled with the fact that all these assesseees are fair enough in not pleading any violation of the principle of natural justice in any of their respective grounds. I therefore find merit in Revenue vehement arguments supporting the impugned addition in principle. The assesseees fail in their respective substantive grounds.

There is yet another equally important aspect of the instant issue. These assesseees have pleaded that the learned lower authorities had made double addition(s) regarding both credit as well as debit sides thereby treating the same as unexplained. I find force in the instant latter plea since both these sides do not deserve to be added i.e. credit side as well as debit side *qua* deposits and investments in issue. Mr. Desai could hardly dispute that the instant computation issue requires the Assessing Officer’s factual verification who shall ensure that these assesseees shall not be

doubly assessed in case they have made the impugned investments from the credits/deposits which have already been treated as unexplained. Ordered accordingly. The assessee's instant identical grounds are partly accepted for statistical purposes in above terms.

6. The assessee's last substantive grievance regarding section 234A, 234B and 234C interest is restored back to the Assessing Officer as consequential in nature issue.

7. These assessee's four appeals are partly allowed for statistical purposes in above terms. A copy of this common order be placed in the respective case files. Ordered accordingly.

Order pronounced on this 31<sup>st</sup> day of May, 2022.

**Sd/-**  
**(S. S. GODARA)**  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 31<sup>st</sup> May, 2022.

*Sujeet (DOC)*

**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), Nagpur.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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