

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC-3” BENCH, AHMEDABAD**

**BEFORE SHRI PRAMOD M JAGTAP, VICE PRESIDENT &
Ms. MADHUMITA ROY, JUDICIAL MEMBER**

I.T.A. No. 08/Ahd/2022
(Assessment Year: 2012-13)

Pratima Hiren Vora A-604, Heritage Skyz, Behind HDFC Bank, Prahladnagar Garden, Ahmedabad-380015	Vs.	ITO Ward-3(3)(4), Ahmedabad
[PAN No.AEOPV5326G]		
(Appellant)	..	(Respondent)

Appellant by :	Shri K. C. Thakkar, A.R.
Respondent by:	Shri Shramdeep Sinha,, Sr. DR

Date of Hearing	22.07.2022
Date of Pronouncement	27.07.2022

ORDER

PER Ms. MADHUMITA ROY - JM:

The instant appeal filed by the assessee is directed against the order dated 16.11.2021 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Center (in short ‘NFAC’), Delhi arising out of the order dated 09.12.2019 passed by the ITO, Ward-3(3)(4), Ahmedabad under Section 143(3) r.w.s 147 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for A.Y. 2012-13.

2. We have heard the rival submissions made by the respective parties, and we have also perused the relevant materials available on record.

3. The brief facts leading to the case is this that a search was conducted under Section 132 of the Act on 25.02.2016 in the various premises of J. P. Iscon Group and related assessee wherein incriminating documents/materials related to the assessee has been claimed to have been seized in respect of “on-

- 2 -

money” received in purchasing Unit No. G-604, Iscon Platinum, booking whereof was made on 10.09.2021. The total investment of Rs. 74,26,250/- has been made including on money as claimed to have been found by the Revenue.

4. The case was re-opened under Section 147 of the Act on the basis of such information available to the AO and notice under Section 148 was issued and served on the assessee on 30.03.2018. The case of the assessee before the AO is this that the investment for purchasing of the said flat made by assessee’s husband where his name was shown on the documents as first buyer and the name of the assessee was kept as a second buyer for the convenience of transfer in case of any unforeseen event. However, this particular aspect of the matter has not been considered by the Ld. AO and the re-assessment was finalized upon making addition of Rs. 22,28,000/- as unaccounted investment as on-money which has not been offered for taxation by the assessee. The assessment was completed with a finding that the assessee had advanced/paid cash as “on-money” for booking/purchase against the unit No. G-604, in Tower-G, 3 BHK, Iscon Platinum, Ahmedabad as per planned (2) of Rs. 22,28,000/- and as per planned (1) cheque of Rs. 51,98,250/- mentioned in the Excel Sheet seized during the search. Such addition was confirmed by the First Appellate Authority. Hence, the instant appeal before us.

5. However, it appears from the said set of documents that the assessee filed a written notes of submission before the Department for faceless assessment which is also appearing at Page 2 to 6 of the order dated 16.11.2021 as impugned before us. When the purchase had been made by the assessee’s husband the addition in the hands of the assessee is unjustified and unwarranted on facts and is not sustainable in law as the case made out by the assessee throughout the proceeding. However, as it appears from the records

- 3 -

that no deliberation has been given by the authorities below on this particular aspect of the matter in its proper perspective considering the records and/or evidence produced by the assessee before it.

6. Thus, having regard to the facts and circumstances of the case we find it fit and proper to remit the issue to the file of the Ld. AO to consider the issue afresh and to pass a reasoned order in the light of the observation made above upon giving an opportunity of being heard to the assessee and upon considering evidence which the assessee may choose to file at the time of hearing of the matter. Assessee's appeal is, thus, allowed for statistical purpose.

7. In the result, the appeal preferred by the assessee is allowed for statistical purpose.

This Order pronounced in Open Court on

27/07/2022

Sd/-
(PRAMOD M JAGTAP)
VICE PRESIDENT
Ahmedabad; Dated 27/07/2022
TANMAY, Sr. PS

Sd/-
(Ms. MADHUMITA ROY)
JUDICIAL MEMBER

TRUE COPY

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad