

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH, MUMBAI**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER &  
Ms. KAVITHA RAJAGOPAL, JUDICIAL MEMBER**

**ITA Nos.1542 & 1543/Mum/2020  
(A.Ys. 2013-14 & 2014-15)**

Shri PVR Murthy C-402, Fortune Towers, Madhpur, Hyderabad - 500082	Vs.	DCIT-CC-4(1) Room No. 1916, 19 <sup>th</sup> Floor, Air India Building, Nariman Point, Mumbai -400021
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: ABRPM1271B		
Appellant	..	Respondent

**ITA No.1544/Mum/2020  
(A.Y. 2014-15)**

Smt. P Vani Murthy C-402, Fortune Towers, Madhpur, Hyderabad - 500082	Vs.	DCIT-CC-4(1) Room No. 1916, 19 <sup>th</sup> Floor, Air India Building, Nariman Point, Mumbai -400021
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: ABRPM1271B		
Appellant	..	Respondent

Appellant by :	H.K. Panda
Respondent by :	Purushottam Tripuri

Date of Hearing	28.07.2022
Date of Pronouncement	05.08.2022

## आदेश / O R D E R

### **Per Amarjit Singh (AM):**

All these three appeals consisting of two appeals of Shri PVR Murthy vide ITA No. 1542/Mum/2020, 1543/Mum/2020 and one appeal pertaining to his wife Smt. P. Vani Murthy vide ITA No. 1544/Mum/2020 directed against the different order of CIT(A)-52, Mumbai are interrelated based on identical facts and similar issue, therefore, for the sake of convenience these three appeals are adjudicated together by taking the ITA No. 1542/Mum/2020 as a lead case and its finding will be applied to the other two cases as mutatis mutandis. The assessee has raised the following grounds before us:

- “1. *On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in confirming the AO's action of estimating the income of appellant at Rs.2,58,10,210/- on the basis of 10% of enhanced value of estimated income for AY 2013-14 despite the fact that gross total income reflected in Form 26AS is Rs.12,72,786/-.*
2. *On the facts and circumstances of the case and in law, the Ld. CIT (A) erred in confirming the addition to the extent of Rs.3,98,360/- on account of unexplained jewellery.*
3. *The appellant craves leave to add to alter, amend and/or delete all or any of the foregoing grounds of appeal.*
4. *The appellant prays before the Hon'ble Tribunal to delete the additions made by the AO and to the extent confirmed by the Ld CIT(A).”*

2. The fact in brief is that a search action u/s 132 of the Income Tax Act was initiated in the ‘Yashovardhan Birla Group’ on 07.01.2014. Consequent to search action some of the directors and other persons associated with Yashovardhan Birla Group were also covered under search action. The assessee Shri PVR Murthy was group Finance Director of Yash Birla Group of companies. Therefore, the assessee’s residential premises were covered under search and seizure action u/s 132 of the Income Tax Act. Subsequent to the search action a notice u/s

153C of the Act dated 25.01.2016 for the assessment year 2008-09 to 2013-14 were issued to the assessee. In respect of year under consideration for assessment year 2014-15, a notice u/s 148 of the Act, dated 01.02.2016 was also issued. The notice u/s 148 was issued at the addresses of the assessee at Santacruz (W) as well as the Bandra (W), the notice issued at the address at Bandra (W) was returned back with remark 'unclaimed'. Subsequently, even the notice served at Santacruz (W) was received back informing that the flat was occupied by some other person. Thereafter the A.O issued show cause notice at the aforesaid addresses asking the assessee to show cause as to why addition in respect of the undisclosed assets found at the time of search action and also in respect of the other issue should not be made. Subsequently, from the record of the assessee, his wife and the companies wherein he was earlier a director, the A.O located new addresses of the assessee which was at Hyderabad, Bandra & Bhandup. At these new places the A.O has also sent the notice u/s 148 as well as show cause, however, the same were returned back unserved. Thereafter, a copy of the notice as well as show cause notice was also sent by the AO at the email of the assessee, however, no response was received from the assessee. Consequently, the A.O has completed the assessment u/s 144 of the Act and assessed total income at Rs. 5,50,39,940/-. In the course of the assessment proceedings the A.O also made addition of Rs.10,39,232/- on account of unexplained jewellery as income of the assessee from undisclosed sources u/s 69 of the Act. The A.O has also added an amount of Rs.1,62,97,237/- in respect of amount deposited in the various bank account of the assessee i.e City Bank, HDFC Bank, ICICI Bank and Indian Bank. The A.O has also made addition of Rs.5 lac in respect of investment made in fixed deposit in the name of the assessee.

The A.O has also added an amount of Rs.1,13,93,258/- u/s 69A of the Act pertaining to insurance premium and other investment in various funds made by the assessee. During the course of assessment the A.O observed that assessee has not filed return of income, therefore, on the basis of return of income filed for A.Y. 2013-14 of Rs.23,46,38,288/-, the A.O estimated the income of the assessee for the year under consideration at Rs.2,58,10,210/- by making 10% enhancement in the income.

3. Aggrieved, the assessee filed the appeal before the ld. CIT(A). During the course of appellate proceedings before the ld. CIT(A) the assessee submitted that he along with his wife Mrs. P. Vani Murthy has left Mumbai on 14.12.2014 due to alleged harassment from the investigation agencies since he was subject to a lot of stress and he had shifted his base to Hyderabad, therefore, the various notices issued by the A.O could not be served upon him. In respect of notice sent to the assessee on email, the assessee submitted that he could not make compliance because of major health complications in the condition of his wife. Under the circumstances the assessee has requested the ld. CIT(A) to allow him to furnish additional evidences to explain the various additions made by the A.O ex-parte u/s 144 of the Act. In this regard the ld. CIT(A) has categorically mentioned in his finding at para 5.1 of his order that there were genuine reason for non submission of the details /evidences in the course of the assessment proceedings primarily on account of the fact that the assessee had shifted based to Hyderabad and because of the deteriorating health of his wife. Therefore, the request of the assessee for the admission of the additional evidence was allowed. The ld. CIT(A) has deleted all the addition on the basis of remand report received from the A.O except estimating the income of the assessee at

Rs.2,34,63,828/- on the basis of 10% of enhanced value of returned income for A.Y. 2012-13 and addition to the extent of Rs.5,98,360/- on account of unexplained jewellery.

4. Heard both the sides and perused the material on record. Without reiterating the facts as elaborated above the ld. CIT(A) has specifically stated in his finding that there was genuine reason for non submission of the detail/evidences in the course of assessment proceedings primarily on account of the fact that the assessee had shifted base to Hyderabad and because of the deteriorating health condition of his wife. The ld. CIT(A) has remanded the additional evidences for necessary examination and submission of the remand report to the A.O. In the remand report the A.O informed that sources of various investment were explained and therefore, the ld. CIT(A) has deleted most of the additions. However, it is noticed that the ld. CIT(A) has confirmed the action of the A.O of estimating the income of the assessee at Rs.2,58,10,210/- on the basis of 10% of enhancement value of estimated income for assessment year 2013-14. In this regard ld. CIT(A) simply stated that assessee had failed to file his regular return of income for relevant year, therefore, A.O has been very fair and reasonable by estimating the income considering 10% increase to the return income of the preceding assessment year. We consider that ld. CIT(A) has not substantiated the basis of estimating the income i.e. the nature of income earned by the assessee during the year under consideration i.e salary income, other sources of income, business income etc. and also not recorded reasons on such point in support of his conclusion. Regarding other ground of appeal of the assessee pertaining to confirming the addition to the extent of Rs.5,98,360/- on account of unexplained jewellery. The ld. Counsel explained that

sufficient time could not be provided to the assessee in the remand proceedings to furnish the supporting document and evidences pertaining to the jewellery found in the course of the assessee. Normally whenever any irregularity crept in the proceeding then after removing the irregularity proceedings is to be initiated from that stage but by remitting the issue to the Ld. first Appellate Authority we would be multiplying the litigation, because the ld. CIT(A) would call for a remand report from the A.O and proceedings would commence in two stages in order to avoid that situation we would deem it proper to set aside the issues to the file of the A.O for deciding afresh after examination verification of the supporting details/document to be furnished by the assessee in the set aside proceeding. The A.O is also directed to state the points in dispute and pass speaking order with reasons in support of his findings on the aforesaid points in dispute. It is needless to say that observation made by us will not injure or impair the case of the A.O and will not cause any prejudice to the defense explanation of the assessee. Therefore this ground of appeal of the assessee is allowed for statistical purposes.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

#### **ITA No. 1543/Mum/2020**

6. As the facts and the issue involved in this appeal are the same as mentioned supra in ITA No. 1542/Mum/2020, therefore, applying the same mutatis mutandis, the issue is restored to the file of the A.O for deciding afresh as directed above. Therefore, this appeal of the assessee is allowed for statistical purpose.

**ITA No. 1544/Mum/2020**

7. As the facts and the issue involved in this appeal are the same as mentioned supra in ITA No. 1542/Mum/2020, therefore, applying the same mutatis mutandis, both the issues are restored to the file of the A.O for deciding afresh as directed supra in this order.

8. In the result, all the appeals filed by the assessee are allowed for statistical purpose.

Order pronounced in the open court on 05.08.2022

Sd/-

(KAVITHA RAJAGOPAL)  
JUDICIAL MEMBER

Sd/-

(AMARJIT SINGH)  
ACCOUNTANT MEMBER

Mumbai, Dated 05.08.2022

PS: Rohit

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

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

आदेशानुसार/BY ORDER,  
सत्यापित प्रति //True Copy//

(Asst. Registrar)  
ITAT, Mumbai