

**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, PUNE**

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

**ITA No.1765/PUN/2019**  
(Assessment Year: 2009-10)

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| M/s. Allabaksha Mehboob Mulla<br>Guruwar Peth<br>Battis Shirala<br>Dist. Sangli 415408 | Vs. | The Income Tax Officer - 2(1)<br>Opp. Biranale Pharmacy<br>College, Vishrambag<br>Sangli 416416 |
|--|-----|---|

PAN –AACFA4723A

**Appellant**

**Respondent**

Appellant by: Shri Kishor B. Phadke  
Respondent by: Shri M.G. Jasnani

Date of Hearing: 28.07.2022  
Date of Pronouncement: 25.08.2022

**ORDER**

**Per S.S. Godara, JM**

This assessee’s appeal for AY 2009-10 arises against the CIT(A) 1, Kolhapur’s order dated 02.07.2019 passed in case No. SLI/10021/2016-17, 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. Delay of 2 days in filing of the instant appeal is condoned in view of the assessee’s condonation averments stating the same as neither intentional nor deliberate.
3. Coming to assessee’s first and foremost substantive ground of validity of the impugned reopening, it emerges at the outset that the Assessing Officer had framed a regular assessment on 30.12.2011 followed by his section 148 notice dated 27.03.2015. Mr. Jasnani could hardly rebut the clinching fact that the same reopening reason nowhere indicated that the assessee’s taxable income had escaped assessment on account of its failure in “fully” and “truly” disclosing all the relevant particulars. Faced with this situation, I quote section

147 (1st proviso) and hon'ble jurisdictional high court's landmark decision in Hindustan Lever Ltd. vs. R. B. Wadkar (2004) 268 ITR 332 (Bombay) to quash the impugned reopening for this precise reason alone. Ordered accordingly.

4. All other pleadings on merits stand rendered academic.

5. This assessee's appeal is allowed.

Order pronounced in the open court on 25<sup>th</sup> August, 2022.

Sd/-  
**(S.S. Godara)**  
**Judicial Member**

Pune, Dated: 25<sup>th</sup> August, 2022

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -1, Kolhapur*
4. *The Pr.CIT-1, Kolhapur*
5. *The DR, "SMC" Bench, ITAT, Pune*

*By Order*

//True Copy//

*Assistant Registrar*  
*ITAT, Pune Benches, Pune*

n.p.