

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

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

आयकर अपील सं./I.T.A. No. 494/Ahd/2020
(निर्धारण वर्ष / Assessment Year : 2011-12)

Balmukund Dhirajlal Jivrani Shihori, Banaskantha, Gujarat - 385550	बनाम/ Vs.	ITO Ward – 4, Gathaman Gate, Banaskantha, Palanpur
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ALPPJ3752N		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	None
प्रत्यर्थी की ओर से/Respondent by :	Shri Shramdeep Sinha, Sr. D.R.

सुनवाई की तारीख / Date of Hearing	22/07/2022
घोषणा की तारीख /Date of Pronouncement	14/10/2022

ORDER

PER Ms. MADHUMITA ROY - JM:

The instant appeal filed by the assessee is directed against the order dated 18.08.2020 passed by the Ld. Commissioner of Income Tax (Appeals) – 4, Ahmedabad arising out of the order dated 22.12.2018 passed by the ITO, Ward-4, Palanpur under section 147 read with Section 144 of the Income Tax Act, 1961 (hereinafter referred as to ‘the Act’) for Assessment Year 2011-12.

2. None appeared on behalf of the assessee at the time of call inspite of notices served upon the assessee.

3. On the basis of information that the assessee has deposited huge cash of Rs.12,72,950/- in Savings Bank Account maintained with State Bank of India for F.Y. 2010-11, the case of the assessee was re-opened under Section 147 of the Act. In fact, no return of income was filed by the assessee. After recording the reasons, a notice under Section 148 of the Act dated 28.03.2018 was served upon the assessee followed by a show cause notice served on 07.12.2018. In spite of repeated notices served upon the assessee, since, none appeared before the AO, neither furnished any details, the assessment under Section 144 of the Act was finalized. The copy of the bank account was called for from SBI upon examination of which it was found that the said amount of Rs.12,72,950/- has been credited in the assessee's account. The interest income of Rs.1,241/- has also been credited, for which, no explanation has been offered. Finally, the addition has been made to the tune of Rs.12,74,191/-, which was, in turn, confirmed by the First Appellate Authority.

4. During the appellate proceeding, the assessee submitted that he is engaged in mobile recharge business. For the purpose of obtaining bank loan, he had made turnover in bank account by making deposit out of the cash withdrawal. Since, no evidence of running mobile recharge business has been filed by the assessee, the addition made by the Ld. AO has been confirmed by the Ld.CIT(A). Even for the sake of argument, if addition is required to be made, it was submitted by the assessee that only peak addition can be made or

net profit could be estimated. Since none appeared on behalf of the assessee at the time of hearing of the matter, we have not been given any assistance in this regard. However, the Ld.DR with all his fairness agreed to give benefit of peak credit to the assessee.

5. In that view of the matter, we set aside the issue to the file of the Ld.AO to verify the same in the light of the observation made hereinabove and to pass orders accordingly upon giving a reasonable opportunity of being heard to the assessee and upon considering any evidence which the assessee may rely upon at the time of hearing of the matter.

6. In the result, assessee's appeal is allowed for statistical purposes.

This Order pronounced on 14/10/2022

Sd/-
(P. M. JAGTAP)
VICE PRESIDENT
Ahmedabad; Dated 14/10/2022

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अग्रेषित/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