

आयकर अपीलिय अधिकरण  
मुंबई पीठ "एस एम सी", मुंबई पीठ  
श्री विकास अवस्थी, न्यायिक सदस्य एवं  
श्री अमरजीत सिंह, लेखाकार सदस्य के समक्ष  
IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC", MUMBAI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER  
आअसं.3248/मुं/ 2022(नि.व. 2013-14)  
ITA NO. 3248/MUM/2022(A.Y.2013-14)  
आअसं.3249/मुं/ 2022(नि.व. 2014-15)  
ITA NO. 3249/MUM/2022(A.Y.2014-15)

Smt. Neelam Nitin Sankhe,  
RM-A-4, Shivdham Apartment,  
Varad Vinayak Lane, Virar East,  
Palghar 401 303  
PAN: BPTPS-3831-N

..... अपीलार्थी /Appellant

बनाम Vs.

Commissioner of Income Tax (Appeals)  
National Faceless Appeal Centre,  
Delhi.

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : None

प्रतिवादी द्वारा/Respondent by : Shri Abhishek Kumar Singh

सुनवाई की तिथि/ Date of hearing : 08/03/2023

घोषणा की तिथि/ Date of pronouncement : 10/03/2023

**आदेश/ ORDER**

**PER VIKAS AWASTHY, JM:**

These two appeals by the assessee are directed against the orders of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short ' the CIT(A) ' ] for the assessment years 2013-14 and 2014-15, respectively. Both

the impugned orders are of even date i.e. 26/10/2022. Since, the issue raised in the appeals germinate from same set of facts, these appeals are taken up together for adjudication and are decided by this common order.

2. The notice of hearing of the appeals was sent to the assessee through RPAD on the address mentioned in Form No.36. The notice was duly served on the assessee. In response to the notice, the assessee filed letter seeking adjournment for the hearing fixed on 15/02/2023. At the request of assessee hearing of the appeals was adjourned to 08/03/2023. On 08/03/2023, none appeared to represent the assessee nor any letter seeking adjournment has been received from the assessee /appellant. It seems that the assessee is not keen to contest the appeal. Therefore, these appeals are taken up for hearing with the assistance of Id. Departmental Representative and after examining the material available on record.

3. The brief facts of the case as emanating from records are: The assessee is a salaried employee working as Staff Nurse in Municipal Corporation of Mumbai. The assessment for assessment year 2013-14 and 2014-15 in the case of assessee was reopened consequent to the search in the case of Ameya Group of Virar. During the course of search action u/s. 132 of the Income Tax Act, 1961 [in short 'the Act'] carried out on 31/07/2014 in the case of Ameya Group, a document was seized, wherein the name of Smt. Neelam Sankhe was mentioned. As per the seized document, Ameya Group had paid cash to Smt. Neelam Sankhe on different dates, the details of the same are as under:

Identification	Amount	Description
Party No.A-29, Bundle No.2, Page No.39	5,00,000 dated 17.12.2013	Being amount paid in cash towards Smt. Neelam Sankhe
Party No.A-29, Bundle No.2, Page No.32	27,00,000 dated 10.11.2012	Being amount paid in cash towards Smt. Neelam Sankhe
Party No. A-29, Bundle No.2, Page No.44	55,00,00 dated 18.02.2011	Being amount paid in cash towards Smt. Neelam Sankhe and Manish Churi

A perusal of the above table shows that during the period relevant to the assessment year 2013-14 the assessee had allegedly received Rs.27.00 lacs in cash and Rs.5.00 lacs was allegedly received by the assessee in cash in the period relevant to the Assessment Year 2014-15. The Assessing Officer issued notice dated 28/01/2016 u/s. 148 of the Act to the assessee for Assessment Year 2013-14. Repeated notices were sent to the assessee during assessment proceedings, however, the assessee failed to respond and did not participate in assessment proceedings. The Assessing Officer completed the assessment u/s. 144 r.w.s. 147 of the Act and made addition of Rs.27.00 lacs in Assessment Year 2013-14 vide order dated 01/12/2016. Similar was the position in Assessment Year 2014-15. The Assessing Officer vide order dated 01/12/2016 completed the assessment u/s.144 r.w.s. 147 of the Act and made addition of Rs.5.00 lacs in the Assessment Year 2014-15.

4. Thereafter, the assessee filed appeal for the respective Assessment Years. Before the CIT(A), the assessee filed written submissions denying any transaction whatsoever with Ameya Group. The assessee alleged that Ameya Group might have used PAN of the assessee fraudulently. The CIT(A) after examining reply of the assessee dismissed the appeal of assessee and confirmed the addition vide separate orders for the respective impugned assessment years.

5. Shri. Abhishek Kumar Singh representing the Department vehemently defended the impugned order and prayed for dismissing the appeals of assessee.

6. We have heard the submissions made by Id. Departmental Representative and have examined the orders of authorities below.. The only reason for making addition of Rs.27.00 lacs in Assessment Year 2013-14 and Rs.5.00 lacs in Assessment Year 2014-15 is that the name of assessee appeared in some document found during the search action in the case of Ameya Group(supra). There is nothing on record to further corroborate as to on what account cash was paid by Ameya Group to the

assessee. Further, it is not clear from the documents on record that as to whether the name of Smt. Neelam Sankhe mentioned in the documents seized from Ameya Group is that of the assessee or any other person with a similar name. The assessee has throughout denied having any transaction with Ameya Group. The assessee emphatically denied to have received any amount from Ameya Group. Except for the name there is nothing on record to link the assessee with the documents found during the course of search. There is no reference to any statement, if any, recorded during the search explaining the reason of assessee's name in the documents seized during the course of search. The purpose for making cash payment to assessee is also not comprehensible. Addition cannot be made in the hands of assessee only for the reason that the name of the assessee appears in the documents found during the search in case of third party. The identity of the person has to be established and the reason for making such payment has to be linked. We find that in the instant case live reason for the cash payment to the assessee by Ameya Group is absent. Thus, we find no reason to sustain the addition. Ergo, impugned orders are set-aside and appeal of the assessee for Assessment Year 2013-14 and 2014-15 are allowed.

7. In the result, appeals by the assessee are allowed.

Order pronounced in the open court on Friday the 10<sup>th</sup> day of March 2023.

Sd/-

(AMARJIT SINGH )

लेखाकार सदस्य/ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/Dated 10 /03/2023

Vm, Sr. PS(O/S)

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

**प्रतिलिपि अग्रेषितCopy of the Order forwarded to :**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,  
Mumbai
6. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar), ITAT, Mumbai