

IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, MUMBAI  
BEFORE SHIR PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 3166/Mum/2022  
(A.Y: 2012-13)

Anoopkumar Devidas Raimalani, Manav Jewellers, Patwa Chawl, Ground Floor, 80, Sheikh Menon, Street, Zaveri Bazar, Mumbai-400002.	Vs.	ITO 18(1)(1), Earnest House, Narimanpoint, Mumbai.-400021.
PAN/GIR No. : AAAPR8626H		
Appellant	..	Respondent

Appellant by :	Mr.Om Kandalkar.AR
Respondent by :	Ms.Jayashree Thakur

Date of Hearing	27.04.2023
Date of Pronouncement	28.04.2023

आदेश / O R D E R

**PER PAVAN KUMAR GADALE JM:**

The assessee has filed the appeal against the order of National Faceless Appeal Centre (NFAC), Delhi / CIT(A) passed u/sec 250 of the Act. The assessee has raised the following grounds of appeal:

*A. Confirming the addition of Rs1,26,800/- on Account of deemed Rent of Rs.1,80,000/- of the Flat at Borivali, while the staff of proprietary concern M/s Manav Jewellers were staying at the same premises.*

*B. Confirming addition of Rs. 8,76,179/- by disallowing claim of deduction from interest and Amenity Charges received, while interest was claimed against interest received of Rs.2,98,167/- on Loans and Advances, Rs. 1,50,967/- against self occupied property and Rs. 4,27,045/- against Amenity charges received for premises given on rent*

*A. Addition of Rs. 1,26,800/- on Account of deemed Rent of Rs.1,80,000/- of the Flat at Borivali.*

*On the facts and in law, the learned CIT (A) erred in confirming the addition of Rs1,26,800/- on Account of deemed Rent of Rs1,80,000/- of the Flat at Borivali while the staff of proprietary concern M/s Manav Jewellers were staying at the same premises without appreciating the fact that in earlier years it was not disallowed*

*B. Addition of Rs. 8,76,179/- by disallowing claim of deduction from interest and Amenity Charges received*

*On the facts and in law, the learned CIT (A) erred in confirming the addition of Rs. 8,76,179/- by disallowing claim of deduction from interest and Amenity Charges received, while interest was claimed against interest received of Rs.2,98,167/- on Loans and Advances Rs1,50,967/- against self occupied property and Rs. 4,27,045/- against Amenity charges received for premises given on rent without appreciating the fact that in earlier years it was not disallowed*

*The Appellant craves leave to add, alter, amend or rescind any of the above grounds of appeal.*

2.The brief facts of the case are that the assessee is engaged in the jewellery business and filed the return of income for the A.Y 2012-13 on 1309.2012 disclosing a total income of Rs.9,78,948/- and the return of income was processed u/s 143(1) of the Act. Subsequently the case was selected for scrutiny and notice u/s 143(2) and 142(1) of the Act. In compliance to the notice, the Ld. AR of the assessee appeared from time and submitted the details. The AO on perusal of the information found that the assessee has disclosed more than one house property as self occupied and provisions of Sec. 22 & 23 of the Act are attracted. Since the assessee has not submitted the details of municipal taxes paid and hence no deduction was allowed and determined the income from house property of Rs.1,22,800/- In respect of second disputed issue with respect to claim of deduction from the income, the AO has observed that the assessee has claimed deduction of interest on unsecured loan against the amenities charges of Rs.10,95,230/-, the contentions of the assessee are that these loans have been utilized for the purpose of acquiring the asset and deduction was claimed u/s 57(iii) of the Act. The AO

was not satisfied with the claims and has disallowed Rs.8,76,179/- and finally assessed the total income of Rs. 19,81,930/- and passed the order u/s 143(3) of the Act dated 26.03.2015.

3. Aggrieved by the order the assessee has filed an appeal with the CIT(A). The CIT(A) considered the grounds of appeal, submissions of the assessee and findings of the AO but was not satisfied with the explanations and information and confirmed the action of the AO and dismissed the assessee appeal. Aggrieved by the order the assessee has filed an appeal before the Tribunal.

4. At the time of hearing the Ld. AR submitted that the CIT(A) has erred in confirming the addition by the AO overlooking the factual information filed in the proceedings. Further the Ld.AR submitted that the assessee has a good case on merits and has filed an application for admission of the additional evidence under Rule 29 of ITAT rules. Per contra, the Ld. DR submitted that the evidences were not examined by the lower authorities and the Ld. DR supported the order of the CIT(A).

5. Heard the rival submissions and perused the material on record. The sole crux of the disputed issue that the CIT(A) has erred in confirming the additions by the A.O. as the transactions are not supported with the documentary evidences. The Ld.AR emphasized that the assessee has submitted the details as called for by the authorities. The assessee is filing the application for admission of additional evidences under Rule 29 of ITAT rules with the Home loan account statements, bank account statement, Ledger Accounts, financial statements ets which were not available earlier and could not produce before the lower authorities. Further the evidences play a important role in decision making in the adjudicating proceedings. Therefore considering the facts, circumstances and additional evidences, the assessee should not suffer for non filing of material information, as the evidences played vital role in decision making and admit the additional evidence. Accordingly, to meet the ends of justice, set aside the order of the CIT(A) and restore the entire disputed issues along with the additional evidence to the file of the assessing officer to decide afresh on merits and the assessee

should be provided adequate opportunity of hearing and shall cooperate in submitting the information. Accordingly, allow the grounds of appeal of the assessee for statistical purposes.

6. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 28.04.2023

Sd/-  
(PAVAN KUMAR GADALE)  
**JUDICIAL MEMBER**

Mumbai, Dated 28.04.2023

KRK, PS

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Mumbai
6. Guard File

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//()

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( Asst. Registrar)  
ITAT, Mumbai