

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI
BEFORE SHRI M BALAGANESH, ACCOUNTANT MEMBER &
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No.7483/Mum/2018

(A.Y: 2011-12)

Suraj Dinesh Singhal B-601/602, Green Acres, Lokhandwala Complex, Andheri (W) Mumbai – 400053.	Vs.	ITO – 20(3)(3) 4 th Floor, Piramal Chambers, Lalbaug, Mumbai – 400013.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AOWPS3343E		
Appellant	..	Respondent

Appellant by :	Mr.Siddharth Shrivastav.AR
Respondent by :	Mr. S.G.Mehta.DR

Date of Hearing	30.05.2022
Date of Pronouncement	31.05.2022

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The assessee has filed the appeal against the order of the Commissioner of Income Tax (Appeals) – 53, Mumbai order passed u/s 143(3) and 250 of the Income Tax Act, 1961. The assessee has raised the following grounds of appeal

- 1. On the facts and circumstances of the case and in law, the Hon CIT(A) has erred in confirming the addition of Rs. 9,58,725/- as short term capital gains by invoking the provisions of S. 50C of the Act.*

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2. *On the facts and circumstances of the case and in law, Hon. CIT(A) has erred in confirming the addition of Rs. 4,69,500/- as unexplained money u/s 69A of the Act.*
3. *On the facts and circumstances of the case and in law, Hon'ble CIT(A) has erred in confirming the disallowance of appellants claim for exemption in respect of house rent allowance of Rs. 3,37,562/- as not genuine deduction.*
4. *On the facts and circumstances of the case and in law, Hon'ble CIT(A) has erred in confirming the addition of Rs. 2,99,714/- as undisclosed salary income.*
5. *On the facts and circumstances of the case and in law, Hon'ble CIT(A) has erred in confirming the disallowance of Rs. 1,34,628/- towards deduction u/s 80C of the Act as not verified.*
6. *Appellant craves leave to add, alter, amend or withdraw the aforesaid grounds of appeal.*

2. The brief facts of the case are that the assessee is an individual and has income from salary. The assessee has filed the return of income for the A.Y 2010-11 on 02.09.2011 disclosing a total income of Rs.12,68,290/- and the return of income was processed u/s 143(1) of the Act. Subsequently the case was selected for scrutiny under the CASS and notice u/s 143(2) and 142(1) of the Act were issued. In compliance to the notice, the Ld. AR of the assessee appeared from time to time and submitted details. The Assessing officer (A.O) has called for the information in respect of the sale of the immovable property. The assessee has filed the details but the

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A.O. was not satisfied with the explanations and called for additional information with respect to sale of the property. Further as per the AIR information, the assessee has not disclosed the capital gain on sale of the property and the transaction of sale is subject to applicability of the provisions of Sec. 50C of the Act. In the absence of the information, the A.O. (i) made an addition of income from capital gains of Rs. 9,58,725/- (ii) since the assessee could not reconcile the cash deposits in the bank account and the A.O. made addition of Rs. 4,69,500/- and (iii) HRA exemption of Rs.3,37,562/- was disallowed as the assessee failed to substantiate the claim with material information. Finally the A.O. has assessed the total income of Rs. 34,68,420/- and passed the order u/s 143(3) of the Act dated 04.03.2014.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A). The CIT(A) considered the grounds of appeal, submissions of the assessee and since no details were filed by the assessee in the course of appellate proceedings, the CIT(A) has confirmed the action of the A.O. and dismissed the appeal. Aggrieved by the order of the CIT(A), the

assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld. AR submitted that the CIT(A) has not considered the information on record and the assessee has a good case on merits and is filing application for the admission of additional evidence and prayed to consider the additional evidence and allow the assessee appeal. Contra, the Ld. DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. The sole crux of the disputed issue as envisaged by the Ld. AR that the assessee for various reasons could not submit the information before the AO and the CIT(A) in respect of the additions. The assessee has filed an application for admission of additional evidence before the Honble Tribunal. The Ld. AR prayed that this additional evidence play a vital role in the decision making of the case and prayed for an opportunity to substantiate before the lower authorities. We considering the facts, circumstances, provisions of law and to meet the ends of justice shall provide one more opportunity to the assessee to substantiate with the evidence.

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Accordingly, we admit the additional evidence and restore the entire disputed issues to the file of the A.O. to verify and examine the material information and decide on merits and the assessee should be provided the adequate opportunity of hearing and shall cooperate in submitting the information. And the grounds of appeal of the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 31.05.2022.

Sd/- (M BALAGANESH) ACCOUNTANT MEMBER	Sd/- (PAVAN KUMAR GADALE) JUDICIAL MEMBER
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Mumbai, Dated 31.05.2022

KRK, PS

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

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5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, Mumbai / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार / BY ORDER,

सत्यापित प्रति //True Copy//

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(Asst. Registrar)
ITAT, Mumbai