

**IN THE INCOME TAX APPELLATE TRIBUNAL  
JABALPUR BENCH, JABALPUR**

**BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA No.72/Jab/2023  
(ASSESSMENT YEAR- 2005-06)**

Sarabjit Singh Mokha, 1112 Pachpedi, South Civil Limes, Jabalpur	vs	ACIT, Circle-2(1), Jabalpur
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>PAN No.</b>		

<b>Assessee By</b>	Shri Rahul Bardia, CA
<b>Revenue By</b>	Shri Shiv Kumar, Sr.DR
<b>Date of hearing</b>	21/09/2023
<b>Date of Pronouncement</b>	22/09/2023

**ORDER**

**PER OM PRAKASH KANT, A.M.:**

The appeal by the assessee is directed against order dated 31.03.2023 passed by Ld. Commissioner of Income Tax(Appeals), National Faceless Appeal Centre, Delhi [in short "Ld.CIT(A)"] for assessment year 2005-06, raising following grounds:

1) *"The order passed by the Ld CIT (A) NAFC supporting the order of Ld ACIT Circle 2(1) is bad in law and facts, void a initio and with jurisdiction.*

(2) *The Ld CIT (A) NAFC erred in supporting the order of Ld ACIT Circle 2(1), by adding Rs 4,82,690/- on account of un declared profit share of M/s M S Constructions. The firm is a separate*

*entity and assessed to tax. Assessment for AY 2005-06 for firm completed u/s 147.*

*(3) The Ld CIT (A) NAFC erred in supporting the order of Ld ACIT Circle 2(1) on the basis of C1 LPS 3 Page 61, 64, 66 and 69. The information mentioned there in is related to M/s M.S. Construction and not to the assessee in individual capacity.*

*(4) The appellant reserves the right to add, amend or alter any grounds of appeal.”*

2. In the grounds raised, the assessee has challenged the protective addition made in the hands of the assessee in relation to share of the addition made in the hands of the partnership Firm M/s. M.S. Construction on substantive basis. Ld.CIT(A) upheld the addition by observing as under:-

5. *“During the course of faceless appellate proceedings, is it seen that, various notices were issued by this office to the appellant to furnish the explanation / evidences in support of the grounds of appeal, (the details of notices were already discussed in the para no. 3 of this order). The communication window to furnish the reply to CIT (Appeals), NFAC was enabled on 31.10.2022. However, no communication was received from the appellant. But, the appellant has not furnished explanation / evidences in support the grounds of appeal.*

*I have gone through the facts of the case, assessment order and material available on record. It is seen from the assessment order that, the AO, after detailed discussion added Rs. 4.8 lakhs to the total income of the appellant. During appeal proceeding,*

*the appellant has failed to explain / provide evidence which could contravene observations of the Assessing Officer. Therefore, I do not find any reason to interfere with the addition made by the assessing officer and the addition made by the Assessing Officer to the tune of Rs. 4,82,690/- is hereby confirmed. Thus, the ground no. 1 to 4 are decided in negative and against the appellant.”*

3. We have heard Ld. Authorized Representatives of the parties on issue in dispute and perused the relevant material available on record. We find that identical issue of share of addition made in the hands of the partnership firm M/s. M.S. Construction, added in the hands of the assessee for AY 2008-09 in ITA No.12/Jab/2017 has already deleted on the ground that the addition for the share of addition made in the hands of the partnership firm cannot be made in the hands of the partner. The issue in dispute in the year under consideration being identical to the issue adjudicated in AY 2008-09 in the case of the assessee itself, following the same, the addition in the year under consideration is deleted.

4. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open Court on 22/09/2023.

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

**Sd/-**  
**(OM PRAKASH KANT)**  
**ACCOUNTANT MEMBER**

*\*Amit Kumar\**

Copy to:

1. The Appellant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR
6. Guard File

Asstt. Registrar  
Jabalpur Bench