

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH (SMC), SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER

ITA No. 627/Srt/2023 (Assessment Year 2017-18)  
(Hybrid hearing)

M/s Hallmark Tour, 10, Sarela Shopping Center, Nr. St. Xavier School, Ghod Dod Road, Surat-395007. <b>PAN No. AAHFH 2717 A</b>	Vs.	A.C.I.T., Central Circle-2, Surat.
Appellant/ assessee		Respondent/ revenue

Assessee represented by	Shri Bharat Jhaveri, A.R.
Department represented by	Shri Vinod Kumar, Sr. DR
Date of Institution of Appeal	14/09/2023
Date of hearing	28/11/2023
Date of pronouncement	30/11/2023

**Order under Section 254(1) of Income Tax Act**

**PER: PAWAN SINGH, JUDICIAL MEMBER:**

1. This appeal by the assessee is directed against the order of learned Commissioner of Income Tax (Appeals)-4, Surat (in short, the Id. CIT(A)) dated 14/07/2023 for the Assessment Year (AY) 2017-18. The assessee has raised following grounds of appeal:

*"1. On the facts and circumstances of the case as well as law on subject, the Id. CIT(A)-4, Surat erred in dismissing the appeal without properly considering the fact of the case, addition made by the Assessing Officer of Rs. 8,64,831/- on account of value of foreign currency found from the appellant's office premises as well as Rs. 14,196/- short disclosure. On the facts and circumstances of the case, the order made by Id. CIT(A) should be cancelled."*

2. Brief facts of the case are that the case of assessee is a partnership firm engaged in the business of tour and travels, booking tickets for travelling, Visa & passport services, travel insurance, hotel booking and tour package, filed its return of income on 07/11/2017 declaring total income

of Rs. 4,67,550/- for the A.Y. 2017-18. A search action was carried out under Section 132 of the Income Tax Act, 1961 (in short, the Act) on 18/03/2017. During search, a foreign currency of having value in Indian rupees of 8,64,831/- was found. Statement of partner of assessee Shri Manojkumar C. Patel was recorded. In response to question No. 13, he stated that 5,000 dollars belongs to him and 5,000 dollars belongs to Himanshu Kapadia, both are the partners and remaining foreign currency belongs to staff who are accompanying the tour parties. The Assessing Officer noted that the assessee failed to produce supporting documents or evidence in the form of withdrawal of capital accounts and currency conversion details to substantiate such foreign currency. The assessee also failed to produce supporting evidence in post search enquiries. During the assessment, the assessee was issued show cause notice to explain the source of such foreign currency with supporting evidence. In response to show cause notice, the assessee filed reply. In reply, the assessee stated that in the course of search proceedings, search party found foreign currency. On asking by authorised officer, they have informed that they are in the business of tour and travels and conduct tour outside India. While escorting the tour party, staff of assessee is going with the guests and on return, there was surplus of this currency out of which 10,000 dollars of two partners and remaining of staff members. The reply of assessee was not accepted by Assessing Officer. The Assessing Officer held that during the search as well as in post search

enquiries, the assessee failed to produce supporting evidence and to show withdrawal from capital account or details of foreign currency conversion besides giving show cause notice, the assessee failed to produce any supporting evidence. In absence of such explanation or evidence, the currency valuing of Indian rupees of Rs. 8,64,831/- was treated as unaccounted income while passing the assessment order on 29/12/2018 under Section 143(3) of the Act.

3. Aggrieved by the additions in the assessment order, the assessee filed appeal before the Id. CIT(A). Before the Id. CIT(A), the assessee filed detailed written submission. In the submission, the assessee submitted that during the course of search, authorised officer found cash in the form of foreign currency as well as certain documents. On being asked by authorised officer regarding the foreign currency, partner of firm explained it in detail that they are in the business of tower and travels in outside India. To escort the tour party, the partner of firm or staff members accompanied the group for the purpose of purchase of foreign currency from the bank to utilize during the tour and balance if any is left with the firm so that it can be utilized in the next tour. The authorised officer was convinced with the reply. The authorised officer not seized the foreign currency and not forced for disclosure regarding this amount. The assessee made disclosure of Rs. 3.81 crores under Pradhan Mantri Garib Kalyan Yojna "PMGKY" which covered this amount as well as discrepancies found and worked out by authorised officer. In the

statement of Manojkumar C. Patel, the assessee explained that 5,000 dollars belongs to him and 5,000 dollars belongs to Himanshu Kapadia and remaining from the staffs. During the post search enquiry, the partner of the firm explained the matter as explained before the authorised officer. After satisfaction, the authorised officer not asked for further disclosure of this amount and this amount was considered in total disclosure made by assessee. There is no question to add the said amount again as an unexplained money in the firm's income as the assessee has already explained in detail during the search proceedings.

4. The Id. CIT(A) after considering the submission of assessee held that the assessee never tried to make any effort to furnish any documentary evidence to show the source of purchase of foreign currency in the form of purchase bill from Forex, agent or bank etc. Even the partner of the firm failed to produce any documentary evidence to show that the said currency was purchased by them from their own capital withdrawal from the firm or from their own savings. The assessee failed to discharge the onus to prove the source of foreign currency by bringing on record any cogent evidence and confirmed the action of Assessing officer. Further aggrieved, the assessee has filed present appeal before this Tribunal.
5. I have heard the submission of the learned Authorised Representative (Id. AR) of the assessee and the learned Senior Departmental Representative (Id. Sr. DR) for the revenue and have perused the orders of the lower authorities carefully. The Id. AR of the assessee submits that

during the search action, the assessee has declared additional income of Rs. 3.81 crores under PMGKY which covers this amount as well as other discrepancies found as worked out by the Authorised Officer. The Authorised Officer was satisfied during the search action on the detailed explanation given by the partner of the assessee in his statement, as recorded by search party. The authorised officer was duly satisfied and not asked for further disclosure as this amount was already considered while making disclosure otherwise the assessee would have disclosed this amount at the time of disclosure. The Id. AR of the assessee submits that no addition on account of foreign currency is to be made. The Id. AR of the assessee also filed his written submission, which may be considered. The written submissions are on similar line.

6. On the other hand, the Id. Sr. DR for the revenue supported the orders of the lower authorities. The Id. Sr. DR for the revenue submits that during the assessment as well as during the first appellate stage, the assessee failed to disclose the source of investment or acquisition of foreign currency. The assessee still has not filed any evidence to substantiate the source of such foreign currency. Mere self-serving statement is not sufficient that disclosure made by assessee includes about foreign currency found during the search action. The Id. Sr. DR for the revenue submits that all the submission of assessee was duly considered by the Id. CIT(A) while passing the impugned order.

7. I have considered the rival submissions of both the parties and perused the record carefully. In my view, the sole issue is about source of investment in the form of foreign currency. The assessee neither before the Assessing Officer nor before the Id. CIT(A) or before this Tribunal failed to show any evidence about the source of investment or acquisition for such foreign currency except claiming that disclosure made by assessee includes the value of foreign currency. In my considered view, the assessee has miserably failed to prove the source of foreign currency found during the course of search action, weather it was acquired by them from their known source or from the booking amount of travelers. Not a single document is filed on record to substantiate whether any amount was spent by the assessee for acquiring or on procuring such foreign currency. In my view mere statement that this amount was taken in to consideration while making declaration of Rs. 3.81 Crore under PMGKY, in not sufficient. Therefore, I do not find any merit in the contention of Id. AR of the assessee and uphold the action of lower authorities. In the result, grounds of appeal raised by assessee is dismissed.
8. In the result, this appeal of assessee is dismissed.

Order announced in open court on 30<sup>th</sup> November, 2023.

**Sd/-**  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

Surat, Dated: 30/11/2023  
*\*Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Surat