

**IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI**

**BEFORE SHRI PRASHANT MAHARISHI, AM
&
SHRI NARENDER KUMAR CHOUDHRY, JM**

In re: ITA Nos. 04/MUM/2022
(Assessment Year: 2015-16)

M/s. Shadawal Enterprises,
SNo.2/IA/2, Shadawal
Impression, Saravali, Boisar,
District – Palghar – 401404

Vs.

Commissioner of Income Tax
(Appeals)-3, Room No. 30, B
Wing, 6th floor, Ashar IT Park,
Wagle Indl. Estate, Thane –
400 604

PAN/GIR No. ACIFS7771C

(Assessee)

:

(Respondent)

Date of corrigendum : 07.03.2024

CORRIGENDUM

Per : N K Choudhry, Judicial Member:

The Assessee by filing a petition dated 07/12/2023 has claimed that though the Hon'ble Court vide order dated 07-11-2023 passed in the captioned appeal, remanded the other issues/grounds raised by the Assessee to the file of the Assessing officer/Ld. Commissioner of Income Tax (Appeals) { in short "Ld. Commissioner" }, however may be inadvertently not decided the issue/ground relating to disallowance of Rs. 14,00,000/- qua sundry creditors, which was taken before the Hon'ble bench by filling a petition dated 06-07-2023 . It is pertinent to note that the above ground was also not challenged before Ld. CIT(A) but the same was argued before the Bench during the course of hearing, therefore the Assessee's humble request for passing the suitable corrigendum, as the adjudication of this ground is necessary in the interest of justice.

2. We have considered the claim of the Assessee, who by filling a petition dated 06-07-2023 not only filed the concise grounds of appeal but also raised the additional ground of appeal which reads as under:

4. On the facts and circumstances of the appellant's case and in law, the Ld. Assessing Officer erred in disallowing the amount of Rs.14,00,000/- on account of alleged un-explained sundry creditors for land, for the reasons mentioned in the impugned order or otherwise.

3. We have perused the Assessment Order, wherein on perusal of the submissions made by the Assessee, it was seen by the Ld. Assessing Officer that the Assessee has also debited the amount of Rs.14,00,000/- on the head "purchases made by Shri Balasaheb Vichare" and further the same amount of sundry creditors for land in the name of Shri Balasaheb Vichare amounting to Rs.14,00,000/- and therefore the Ld. Assessing Officer during the assessment proceedings asked the Assessee to clarify the same along with supporting evidences. As observed by the Ld. Assessing Officer, the Assessee failed to furnish any details about sundry creditors of the land and the same has been remained unexplained and therefore in the absence of any cogent evidence, the Ld. Assessing Officer held the said amount of Rs.14,00,000/- as unexplained and consequently added the same in the income of the Assessee. Admittedly the Assessee also did not challenge this addition before the Ld. Commissioner of Income Tax. Therefore the said ground/issue was not decided by the Ld. Commissioner of Income Tax. However, we recollect that though the Assessee by filling a petition dated 06-07-2023 has raised specific additional ground qua disallowance of Rs.14,00,000/- on account of alleged un-explained sundry creditors for land, however, at the time of argument of appeal, did not agitate the same specifically and

therefore the said ground remained to be un-adjudicated by us, while deciding the captioned appeal . Whatsoever it may be, as we have already set aside the order passed by the Ld. Commissioner of Income Tax, and remanded the issue qua addition of Rs.1,30,00,000/- as un-explained purchase expenses allegedly paid to Shri Ganesh Vithal Indore, to the file of Ld. AO for decision de-novo and the issue qua additions of Rs.18,75,645/- and Rs.12,42,542/- respectively on account of separation of opening stock & adhoc disallowance and on account of un-explained labour charges and purchases, to the file of Ld. Commissioner for adjudication of the same, therefore considering the peculiar facts and circumstances, on the same reasoning as mentioned in para no. 9.1 of the order dated 07-11-2023 passed in the captioned appeal and proper adjudication of the issue in hand and for the substantial justice, we are also inclined to remand the instant issue qua disallowance of Rs.14,00,000/- on account of sundry creditors to the file of the Ld. Commissioner for decision on the same, suffice to say by affording reasonable opportunity to the Assessee. The Assessee is also directed to file the relevant documents in support of its claim. Accordingly, the issue under consideration stands remanded in the aforesaid terms.

4. Thus this corrigendum specifically para no. **3** of the corrigendum be read as Para No. **9.2** of the order dated **07-11-2023** passed in the captioned appeal i.e. ITA No.**04/Mum/2022** .

This corrigendum is issued on 07-03-2024.

Sd/-
(PRASHANT MAHARISHI)
Accountant Member
Mini, Sr.PS.

Sd/-
(Narender Kumar Choudhry)
Judicial Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai