

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE "SMC" BENCH : PUNE [VIRTUAL HEARING]
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

आयकर अपील सं. /ITA No.1249/PUN/2023

निर्धारण वर्ष / Assessment Year : 2014-15

Balaji Madhavrao Malwade, Tarang, 2 nd Floor, Plot No.33, Sector 10, Khanda Colony, New Panvel (West) – 410206 Maharashtra PAN : ACUPM4749A (Appellant)	vs.	Income Tax Officer, Ward-4, Panvel (Respondent)
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For Assessee :	None
For Revenue :	Smt. Neha Deshpande

Date of Hearing :	13.03.2024
Date of Pronouncement :	26.03.2024

ORDER

PER SATBEER SINGH GODARA, J.M. :

This assessee's appeal for assessment year 2014-15, arises against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No.ITBA/NFAC/S/250/2023-24/1055372984(1), dated 24.08.2023, involving proceedings u/s.147 r.w.s.144 of the Income Tax Act, 1961 (in short "the Act").

Case called twice. None appears at assessee's behest. He is accordingly proceeded ex parte.

2. It emerges during the course of hearing that the first and foremost substantial issue which arises from the rival pleadings is that of the correctness of the impugned section 148/147 proceedings itself once it has

come on record that the same had been initiated against the assessee based on the specific incriminating material found/seized during the course of search on 13.07.2016 conducted in case of M/s. India Bulls Housing Finance Limited. It is noticed in this factual backdrop that even the learned NFAC detailed discussion in para 6.1 onwards is fair enough in concluding that “specific evidences has been found in the Search and Seizure operations in the case of the company from which the assessee has bought the flat”.

3. This being the clinching factual position that the impugned addition of unexplained investment is based on the specific seized material, it is hereby concluded that the learned lower authorities could not have initiated section 148/147 proceedings as there is already a comprehensive provision for assessment of such third parties u/s.153C of the Act. Faced with this situation, I see no reason to sustain the impugned reopening in light of ITA No.49/Jab/2018’s “Third Member” decision in Kalyanika Infra Mega Ventures Private Ltd. Vs. DCIT dt. 09.10.2023. Learned Third Member has held section 153A to 153D applicable w.e.f. 01.06.2023 is a search initiated on or before 01.04.2021, form a complete code in itself. Faced with this situation, I quash the impugned reopening in very terms. The assessee succeeds in his first and foremost legal ground.

4. All other pleadings on merits stand rendered academic.

5. This assessee's appeal is allowed in above terms.

Order pronounced in the open Court on 26th March, 2024.

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated : 26th March, 2024

Satish

Copy to :

1.	The appellant
2.	The respondent
3.	The Pr. CIT, Pune concerned
4.	D.R. ITAT, "SMC" Bench, Pune.
5.	Guard File.

//By Order //

//True Copy //

Sr. Private Secretary, ITAT,
Pune Benches, Pune.