

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

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER

**ITA NO.4173/MUM/2023
Assessment Year 2010-11**

Babulal Siremal Bhansali HUF,
177/F, 3rd Floor, Room No.116,
Old Amrutwadi, Girgaon S.O,
Mumbai 400 004
PAN: AACHB-6154-Q

- Appellant

Vs.

Income Tax Officer 19(1)(2),
Matru Mandir, Room No.204,
Tardeo Road, Mumbai 400 007

- Respondent

Appellant by : Mr. Kaushik Makwana
Respondent by : Shri Suni Mathews, Sr.DR

Date of Hearing : 02/05/2024
Date of Pronouncement : 03/05/2024

ORDER

The assessee has filed this appeal challenging the order dated 22/09/2023 passed by CIT(A), NFAC, Delhi and it relates to the Assessment Year 2020-11. The assessee is aggrieved by the decision of CIT(A) in confirming the addition of Rs.20,58,011/- made by the Assessing Officer.

2. The facts relating to the issue are stated in brief. The assessee is a Hindu Undivided Family and had filed its return of income for the year under consideration declaring total income of Rs.4,22,100/-. The same was processed u/s. 143(1) of the Act. Subsequently, it came to the notice of the Assessing Officer that DIT-Ahmedabad has conducted search and survey action on Commodity Traders Group and it was noticed that they were providing losses/gains in connivance with certain brokers by misusing NMCE platform. It was noticed that the assessee has declared profit aggregating to Rs.20,17,658/-from

Commodity Trading carried out through a broker named R.P.Jambhuwala. According to the Assessing Officer, the aforesaid broker was an accommodation entry provider. Accordingly, the Assessing Officer reopened the assessment for the year under consideration by issuing notice u/s. 148 of the Act.

3. During the assessment proceedings, the Assessing Officer treated the aforesaid amount of Rs.20,17,658/- as unexplained income and added the same to the total income declared by the assessee. The Assessing Officer also took a view that the assessee would have incurred expenditure in procuring the aforesaid profit, which was estimated by the Assessing Officer as Rs.40,353/-. The Assessing Officer added the same to the total income of the assessee. The CIT(A) also confirmed both the additions.

4. I heard the parties and perused the record. From the statement of total income as well as from the profit and loss account furnished by the assessee, I notice that the above said income of Rs.20,17,658/- has already been offered to tax by the assessee. Hence, the addition of the very same amount again by the Assessing Officer would result in double assessment of the same income, which is not permitted. Hence, the addition made by Assessing Officer is not warranted in facts and circumstances of the case. Accordingly, I direct the Assessing Officer to delete the addition of Rs.20,17,658/- made by him

4. The Assessing Officer has added an amount of Rs.40,353/- on the presumption that the assessee would have incurred the expenditure in procuring profit of Rs.20,17,658/-. I notice that the presumption so entertained by the Assessing Officer is not supported by any material, Hence, I am of the view that the same is liable to be

deleted. Accordingly, I direct the Assessing Officer to delete the same.
In view of the above, the order passed by CIT(A) is set aside.

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

Order pronounced in the open court on 03rd May, 2024.

Sd/-

(B.R. Baskaran)
Accountant Member

Mumbai, Date : 03rd May, 2024

VM.

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The PCIT/CIT concerned
- 4) The D.R, "SMC" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai