

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

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER

AND

SHRI RAHUL CHAUDHARY, HON'BLE JUDICIAL MEMBER

ITA NO. 3768/MUM/2023 (A.Y: 2015-16)

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| INCOME TAX OFFICER Room No. 4, B Wing, 6 th Floor Ashar IT Park, Wagle Industrial Estate Thane (W)-400604 Maharashtra - 400604 | v. | SACHIN MOHAN SATUNKAR B-403, Lavina, Hiranandani Estate Ghodbunder Road, Thane Maharashtra – 400607 PAN: AWMPS8079F |
| (Appellant) | | (Respondent) |

| | | |
|--------------------------------------|----------|------------------------------|
| Assessee Represented by | : | Shri Anthony Dsouza |
| Department Represented by | : | Shri Paresh Deshpande |
| | | |
| Date of conclusion of Hearing | : | 07.05.2024 |
| Date of Pronouncement | : | 07.05.2024 |

ORDER

PER NARENDRA KUMAR BILLAIYA (AM)

1. This appeal by the revenue is preferred against the order dated 11.08.2023 by National Faceless Appeal Centre, Delhi [hereinafter in short "Ld. CIT(A)"] pertaining to A.Y.2015-16.

2. The grievance of the revenue read as under: -

"a. On the facts and in circumstances of the case, the CIT(A) erred in deleting the addition of Rs. 2,18,64,259/-only on the basis of case law without establishing the facts of the case by conducting independent enquiries u/s. 250 of the Act or calling for a report from the A.O.

b. On the facts and in circumstances of the case, the CIT(A) erred in deleting the addition of Rs. 2,18,64,259/-only on the basis of statements of the assessee without considering the fact that there was no contrary documentary evidence on record.

c. The appellant craves leave to add, amend or alter or alter any ground/grounds, which may be necessary."

3. Briefly stated the facts of the case are that, on the basis of the AIR information the return for the year under consideration was selected for scrutiny assessment and accordingly, statutory notices were issued and served upon the assessee.

4. During the course of the scrutiny assessment proceedings, Assessing Officer was of the opinion that there are two major issues, one with regard to sale of property and taxation on capital gain arising thereon; and secondly, the investment in property by the assessee during Financial Year 2014-15.

5. Assessee was asked to furnish the details which were considered by the Assessing Officer but who was of the opinion that the assessee

has not explained the sources of the investments in two properties amounting to ₹.2,18,64,259/-. The Assessing Officer made the addition accordingly.

6. Assessee challenged the addition before Ld. CIT(A) and explained that there was purchase of one property and sale of one property and the Assessing Officer has framed the assessment on wrong appreciation of facts. The Ld. CIT(A) was convinced and deleted the impugned addition.

7. Having considered the rival submissions, we have carefully perused the orders of the authorities below. It appears that there is some factual error in the AIR information which prompted the Assessing Officer to frame the impugned assessment. The contention of the assessee that the transaction was only for the purchase of "one property" and sale of "one property" cannot be brushed aside lightly.

8. Therefore, in the interest of justice and fair play, we deem it fit to restore the issue to the file of the Assessing Officer. The Assessing Officer is directed to verify the correct AIR details in respect of purchase

and sale of properties and decide the issue afresh, after affording a reasonable and adequate opportunity of being heard to the assessee.

9. In the result, appeal filed by the revenue is allowed for statistical purpose.

Order pronounced in the open court on 07th May, 2024.

Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER

Mumbai / Dated 07.05.2024
Giridhar, Sr.PS

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

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

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum