

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

BEFORE Ms. SUCHITRA R. KAMBLE, JUDICIAL MEMBER

**ITA No. 674/Ahd/2023
Assessment Year: 2016-17**

Pritesh Lalitbhai Pandya B/15, Krushnvila Bungalows, Nr. Radhanagar Society, Isanpur Road, Jamalpur Road, Ghodasar, Ahmedabad-382450 PAN : BXWPP 8078 D	Vs	Income Tax Officer, Ward-3(2)(9), Ahmedabad
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri Mehul Thakkar, AR
Revenue by :		Shri Sanjay Jain, Sr DR

सुनवाई की तारीख/Date of Hearing : 10/04/2024
घोषणा की तारीख /Date of Pronouncement : 30/05/2024

ORDER

This appeal filed by the assessee is directed against the order of the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)" for short] dated 25.08.2022 passed under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as "the Act" for short] for the Assessment Year (AY) 2016-17.

2. The only ground raised by the assessee reads as under :-

"That on facts, and in law, both the learned A.O. and Ld. CIT(A) has grievously erred in treating the amount of Rs.12,64,148/- as unexplained investment under section69 of the Income Tax Act, 1961."

3. The assessee filed return of income on 28.10.2016 declaring total income at Rs.3,66,380/-. The same was processed u/s 143(1) of the Act on 17.11.2016. The case was selected for limited scrutiny and notice u/s 143(2) of the Act was issued on 17.07.2017 which was duly served on the assessee through e-filing portal. A notice u/s 142(1) along with a detailed questionnaire was issued on 19.06.2018 and duly served to the assessee. Reminder was also issued on various dates for calling upon the details. In response to the notices issued u/s 143(2) and 142(1) of the Act, the

assessee uploaded the reply in e-filing portal. After verifying the same, the Assessing Officer observed that, during the year under consideration, the assessee purchased agricultural land for Rs.21,06,913/- which is 1/8th share of total purchase price of Rs.1,68,55,300/-. The assessee, vide reply dated 30.11.2018, submitted that out of total purchase consideration of Rs.21,06,913/-, an amount of Rs.12,64,148/- was paid by Jay Jalaram Bricks on behalf of the assessee. The Assessing Officer observed that the assessee has not filed the details of confirmation from Jay Jalaram Bricks, copy of ITR, bank statements etc. Thus, the Assessing Officer made addition of Rs.12,64,148/- under the provisions of Section 69 of the Act as unexplained investment.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that there is a delay of 315 days in filing the present appeal, for which a detailed affidavit along with condonation of delay is filed.

5.1 As regards the assessee's appeal, the ld. AR submitted that the assessee in the FY 2015-16 jointly acquired agricultural land with 7 other co-owners for a total consideration of Rs.1,68,55,300/-. An amount of Rs.8,42,765/- was disbursed by Pritesh Lalitbhai Pandya, i.e. the assessee, towards the purchase of the agricultural land. An affidavit of Shri Mittal Dilipbhai Patel has been filed by the assessee stating therein that there was a mistake regarding 1/8th share of the agricultural land of the assessee, and, therefore, there is a miscalculation in respect of accounting entries in the books of accounts. In fact, the actual amount paid by the assessee is Rs.8,42,765/- and the accurate share of the assessee is in fact 1/20th only. The ld. AR submitted that certain documents related to the sale deed as well as the bank accounts of the assessee were not filed before the authorities and the same needs verification, and therefore the matter may be restored back to the file of the Assessing Officer for verifying the same.

6. The ld. DR submitted that the balance amount was not mentioned by the assessee; and, in fact, the affidavit of Shri Mittal Dilipbhai Patel should not be

entertained at this juncture. He relied upon the order of the Assessing Officer as well as of the CIT(A).

7. Heard both the parties and perused all the relevant material available on record. The assessee before us, at this juncture, has filed a detailed statement of accounts of Jay Jalaram Bricks as well as the cheque number and the details of the amount of 1/20th shares of each party. The assessee has also filed a copy of sale deed along with an affidavit of Shri Mittal Dilipbhai Patel which needs verification. Therefore, I remand back the matter to the file of the Assessing Officer for proper verification and adjudication of these documents and decide the case accordingly, as per Income-tax Statute. Needless to say that the assessee be given opportunity of hearing by following the principles of natural justice.

8. The delay in filing the present appeal is explained by the assessee, and therefore the same is condoned.

9. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on this 30th day of May, 2024.

Sd/-

(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 30th day of May, 2024

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Copies to:	(1) <i>The appellant</i>	(2) <i>The respondent</i>
	(3) <i>CIT</i>	(4) <i>CIT(A)</i>
	(5) <i>Departmental Representative</i>	(6) <i>Guard File</i>

By order

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Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad