

**| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"SMC" BENCH, MUMBAI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER**  
**&**

**SHRI RAHUL CHAUDHARY, HON'BLE JUDICIAL MEMBER**

**I.T.A. No. 1401/Mum/2024**

**Assessment Year: 2022-23**

<b>ALWAR</b> 1, Reay House Best Marg Colaba Mumbai - 400001 <b>[PAN: AAEEA9499C]</b>	Vs	<b>Income Tax Officer, CPC,</b> <b>Bengaluru</b>
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<b>अपीलार्थी/ (Appellant)</b>	<b>प्रत्यर्थी/ (Respondent)</b>
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Assessee by :	Shri Sanjay Parikh, A/R
Revenue by :	Shri R.R. Makwana, Sr. D/R

सुनवाई की तारीख / **Date of Hearing** : 09/07/2024  
घोषणा की तारीख / **Date of Pronouncement**: 09/07/2024

**आदेश/ORDER**

**PER NARENDRA KUMAR BILLAIYA, AM:**

This appeal by the assessee is preferred against the order of the Addl./JCIT(A)-1, Coimbatore, dt. 07/02/2023, pertaining to Assessment Year 2022-23.

2. The solitary grievance of the assessee is that the Id. CIT(A) has erred in confirming the levy of surcharge amounting to Rs.4,83,032/-.

3. The total income of the assessee as per the return of income was Rs. 43,51,640/- and the same income was processed u/s 143(1) of the Act. However, while computing the tax liability, the CPC levied surcharge which is the bone of contention. The quarrel revolves around the first schedule of the Finance Act, 2020, which provides that the amount of income tax shall be increased by surcharge at rates specified therein when the total income exceeds the threshold limits

i.e., Rs.50 Lakhs/ Rs.1 Crore/Rs. 2 Crores/Rs. 5 Crores. The relevant part of first schedule read as under:-

*Surcharge on income-tax*

*The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 or section 112A or the provision of section 115BAC of the Income-tax Act, shall be increased by a surcharge for the purposes of the Union, calculated, in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act,*

*(a) having a total income (including the income by way of dividend or income under the provisions of section 111A and section 112A of the Income-tax Act) exceeding fifty lakh rupees but not exceeding one crore rupees, at the rate of ten per cent. of such income-tax:*

4. It can be seen from the above that the surcharge has to be levied only when the income exceeds Rs. 50 Lakhs. As mentioned elsewhere, the returned income of the assessee is Rs.43,51,640/- and the same has been accepted as such and being less than Rs.50 Lakhs, would not attract surcharge. Therefore, the AO is directed to delete the surcharge so levied.

5. In the result, appeal of the assessee is allowed.

**Order pronounced in the Court on 9<sup>th</sup> July, 2024 at Mumbai.**

*Sd/-*  
**(RAHUL CHAUDHARY)**  
**JUDICIAL MEMBER**

*Sd/-*  
**(NARENDRA KUMAR BILLAIYA)**  
**ACCOUNTANT MEMBER**

Mumbai, Dated 09/07/2024

*\*Sd/-*

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आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :

1. ँ पीलर्ी / The Appellant
2. प्रत्यर्ी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (ं पील) / The CIT(A)-
5. विभर्ीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फार्ड/ Guard file.

आदेशानुसार/ BY ORDER,  
TRUE COPY

Assistant Registrar  
आयकर अपीलीय अधिकरण  
ITAT, Mumbai