

IN THE INCOME TAX APPELLATE TRIBUNAL, "H- SMC"  
BENCH MUMBAI

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &  
SMT RENU JAUHRI, ACCOUNTANT MEMBER

ITA. No. 2723/MUM/2024  
(Assessment Year : 2010-11)

ShreeMunisuvratSwami Jain Shwetamber Murtipujakl Sangh, S M Sangh, 525 Fernandis Banglo, New Mil Road, Kurla (West), Mumbai-400072.	Vs.	ITO(Exemp)Ward-2(3), Room no. 513, 5 <sup>th</sup> Floor, Piramal Chambers, Lalbaug, Parel, Mumbai-400012.
PAN/GIR No. AACTS0988H		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Assessee by	Shri.Prakash Jhunjhunwala.AR
Revenue by	Ms.Jancy Elizabeth Rani L. Sr.DR.

सुनवाई की तारीख/Date of Hearing	25.07.2024
घोषणा की तारीख/Date of Pronouncement	30.07.2024

**ORDER**

**PER PAVAN KUMAR GADALE, JM:**

The appeal is filed by the assessee against the order of National Faceless Appeal Centre (NFAC) Delhi /CIT(A) passed u/sec 143(3) and u/sec 250 of the Act. At the time of hearing the Ld. AR submitted that the ground of appeal No.1 is not pressed and is dismissed as withdrawn. The assessee has raised the following grounds of appeal:

1.0 On facts and circumstances of the case and in Law, Ld. CIT(A) ought to have held the assessment order passed u/s 144 as non-est and bad-in-law, since had been passed beyond the limitation period prescribed u/s 153(1) of the Act;

2.0 On facts and circumstances of the case and in Law, Ld. CIT(A) erred in not admitting the Additional Evidence u/r 46(A) of I.T. Rules, 1962 and ought to have considered the reasonable cause and bonafide reasons that had precluded the appellant to furnish the relevant documents on assessment record;

3.0 On facts and circumstances of the case and in Law, Ld. CIT(A), erred in confirming the addition of entire cash deposits made in bank account of Rs.20,60,000/-;

4.0 The Ld. CIT(A), before confirming the addition of entire cash deposits made bank account of Rs.20,60,000/-, ought to have considered the understated vital facts, being;

a) The cash deposits made in bank account are properly accounted and disclosed transactions, being sourced out of donations received in the temple and deposited in regular bank account of appellant's trust;

b) The complete details of donation received in cash from various devotees of the temple, audited cash/bank bank, donation receipts, photographs, bank statement and audited balance sheet recording the disputed transactions had filed before Ld. CIT(A)

c) The Ld. CIT(A), without calling for a remand report and carrying any independent investigation and disproving the documents filed on record, erred in confirming the addition in limine.”

2. The brief facts of the case are that, the assessee is a Trust registered under 12AA of the Act the Assessing Officer (A.O) has received the information as per the AIR/ITD system that, the assessee has made cash deposits aggregating to Rs.20,60,000/- in the bank

accounts and earned interest income of Rs.33,3470/- during the F.Y 2009-10 and the assessee has not filed the return of income. The assessing officer has reason to believe that the income has escaped assessment and issued notice u/sec148 of the Act and the AO has also issued notice u/se 143(2) and u/sec142(1) of the Act. Since there was no compliance to the notices, and the assessee could not substantiate with the material information in support of sources. The A,O considering the information available on record, has invoked the provisions of section 144 of the Act and made an addition and assessed the total income of Rs.20,93,470/- and passed the order u/sec 144 r.w.s 147 of the Act dated 23.11.2017.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) considered the grounds of appeal, submissions of the assessee, findings of the AO and the assessee has also filed additional evidence which was rejected by the CIT(A) and whereas the CIT(A) has granted relief in other grounds of appeal and partly allowed the assessee appeal. Aggrieved by the CIT(A) order the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld. AR submitted that the CIT(A) has not considered the submissions, information and additional evidence filed by the assessee supporting the sources of cash deposits and the expenditure claimed

in the Audited financial statements. Further the Ld. AR contentions are that the books of accounts are audited and the assessee is filing income tax returns regularly and prayed for admission of the additional evidence. Further the Ld.AR emphasized that the assessee has good case on merits and pleaded for an opportunity to substantiate the case with evidences and information before the lower authorities and relied on the factual paper book. Per Contra, the Ld.DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. The sole crux of the disputed issue envisaged by the Ld.AR that the CIT(A) has erred in confirming the addition of cash deposits made by the A.O. as the transactions/ sources are not supported with the documentary evidences ignoring the reply filed by the assessee and rejecting the additional evidence filed. The Ld.AR emphasized that the assessee has submitted the details as called for by the appellate authorities. The assessee is filling the application for admission of additional evidences to substantiate the sources and expenditure incurred in complying with the objects of the trust and could not produce before the lower authorities. Further the evidences play an important role in decision making in the adjudicating proceedings. Therefore considering the facts, circumstances and additional evidences, the assessee should not suffer for non filing of material information, as the evidences played a vital role in

decision making and admit the additional evidence. Accordingly, to meet the ends of justice, we set aside the order of the CIT(A) on this disputed issue, and restore the issues along with the additional evidence to the file of the assessing officer to decide afresh on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information. And we allow the grounds of appeal of the assessee for statistical purposes.

6. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 30.07.2024.

Sd/-  
**(RENU JAUHRI)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

Mumbai, Dated: 30/07/2024

KRK

**Copy of the Order forwarded to:**

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,  
(Dy./Asstt. Registrar)ITAT,  
Mumbai