

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

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
&
SHRI SUNIL KUMAR SINGH, HON'BLE JUDICIAL MEMBER

I.T.A. No. 3194/Mum/2024
Assessment Year: 2013-14

Income Tax Officer, Ward - 3(2), Kalyan	Vs	Subhash Sadanand Salkar 15, Lords House CHS Rajaji Path Dombivili East Mumbai - 421201 [PAN: AJXPS5723L]
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Bharat Kumar, A/R
Revenue by :	Shri R.R. Makwana, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 26/08/2024
घोषणा की तारीख/Date of Pronouncement : 28/08/2024

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM :

This appeal by the revenue is preferred against the order dated 22/03/2024 by ld. CIT(A)/Addl. CIT(A)-7, Kolkata [in short 'ld. CIT(A)], pertaining to AY 2013-14.

2. The solitary grievance of the revenue is that, the ld. CIT(A) erred in allowing the appeal of the assessee and deleted the addition made by the AO relating to penny stock scrips of M/s. Aricent Infra Ltd.

3. The peculiar facts of the case are that the AO while completing the assessment assessed the income at Rs. 5,19,230/- and taking the returned income also at Rs.5,19,230/-. This means that according to the AO the assessed income is the returned income of the assessee. Yet the assessee challenged the assessment before the ld. CIT(A) and pointed

out that the returned income was only Rs.2,70,880/-. The ld. CIT(A) in his wisdom allowed the appeal of the assessee.

4. We being the final fact-finding authority cannot decide this appeal on gross erroneous facts. Therefore, in the interests of justice, we restore the issues to the file of the AO. The AO is directed to first verify the returned income of the assessee, then frame the assessment after providing reasonable and adequate opportunity to the assessee of being heard.

5. In the result, appeal of the revenue is allowed for statistical purposes.

Order pronounced in the Court on 28th August, 2024 at Mumbai.

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 28/08/2024

Sd/-

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai

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		Date	Initials	
1.	Draft dictated on:	26/08/2024		Sr. PS/PS
2.	Draft placed before author:	27/08/2024		
3.	Draft proposed & placed before the second member:			JM/AM
4.	Draft discussed/approved by Second Member:			JM/AM
5.	Approved Draft comes to the Sr. PS/PS:	/08/2024		Sr. PS/PS
6.	Order pronounced on:	/08/2024		Sr. PS/PS
7.	Dictation pad is enclosed	Yes		
8.	Date on which the final order is upload on the website of ITAT	/08/2024		
9.	File sent to the Bench Clerk:	08/2024		
10.	Date on which file goes to the Head Clerk:			
11.	Date on which file goes to AR			
12.	Date of dispatch of Order:			