

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.3380/M/2024
Assessment Year: 2014-15
&
ITA No.3376/M/2024
Assessment Year: 2015-16**

Deputy Commissioner of Income Tax, Room No.404, Kautilya Bhawan, BKC Maharashtra-400051	Vs.	Ms. Sindoor Vineet Mittal, Shubham Building Gandhigram Road, Near ISKON Temple Juhu Maharashtra- 400 049 PAN: ACAPT2547H
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Prateek Jain, A.R.
Revenue by : Ms. Nayana Krishnakumar, Sr. A.R.

Date of Hearing : 26 . 08 .2024
Date of Pronouncement : 30 . 08 .2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

The issues involved in both the appeals are identical and therefore for the sake of brevity the same were heard together and are being disposed of by this composite order and considering ITA No.3380/M/2024 as a lead case and result of the same shall apply mutatis mutandis to both the appeals under consideration.

2. These appeals have been preferred by the Revenue against the order even dated 01-05-2024 impugned herein, passed by the Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2015-16.

2. Both the cases are based on the almost identical facts and circumstances except variation in figures, therefore for the sake of brevity the same were heard together and are being disposed of by this order and considering the **ITA No.3380/M/2024** as a lead case and the result of the same shall apply mutatis mutandis to the connected appeal as well.

3. Coming to the ITA No.3380/M/2024, we observe as submitted by both the parties that in the instant case vide assessment order dated 28.12.2019, the addition of Rs.7,14,99,827/- in total (Rs.6,94,17,308/- on account of unexplained credit u/s 68 of the Act Rs.20,82,519/- on account of unexplained expenditure u/s 69A of the Act was made, by the Assessing Officer (AO).

4. The Assessee, being aggrieved, challenged the aforesaid addition by filing first quantum appeal before the then Ld. CIT(A) who vide order dated 29.11.2021 has confirmed the aforesaid addition. Thereafter vide order dated 27.03.2023 a penalty order u/s 271(1)(c) of the Act was passed, whereby the penalty of Rs.2,87,25,000/- @ 100% of the tax sought to be evaded on the income of Rs.7,14,99,827/- has been made. On appeal, Ld. Commissioner deleted the penalty.

5. During the hearing, the Assessee has drawn our attention to the Tribunal's order dated 17.11.2023, whereby the co-ordinate Bench of the Tribunal allowed the appeal of the Assessee and consequently deleted the addition of Rs.7,14,99,827/- in total {additions of Rs.6,94,17,308/-, Rs.20,82,519/- respectively made u/s 68 & 69C of the Act}. As the foundation of the imposing the penalty has already been collapsed by virtue of Tribunal's order dated 17.11.2023 referred to above, hence the penalty under consideration could not survive and therefore the same has rightly been deleted by the Ld. Commissioner by passing impugned order. Thus, the appeal under consideration is liable to be dismissed.

6. The Ld. DR did not refute the aforesaid facts and claim of the Assessee.

7. Considering the peculiar facts and circumstances referred to above in totality, the appeal under consideration i.e. ITA No.3380/M/2024 filed by the Revenue Department is dismissed.

8. In view of our decision in ITA No.3380/M/2024, both the appeals under consideration stands dismissed.

Order pronounced in the open court on 30.08.2024.

**Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.