

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'D' अहमदाबाद ।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"D" BENCH, AHMEDABAD

BEFORE MS. SUCHITRA R. KAMBLE, JUDICIAL MEMBER AND  
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTNAT MEMBER

ITA No. 234/Ahd/2021  
Assessment Year: 2018-19

Deputy Commissioner of Income-tax, Central Circle-2(4), Ahmedabad	<u>बनाम/</u> Vs.	M/s. Shiv Infraspac, 26, Astha Bungalows, Science City Road, Sola, Ahmedabad-380060 PAN : ACZFS 7865 G
<b>(Appellant)</b>		<b>(Respondent)</b>
Assessee by	Shri Bandish Soparkar, AR & Shri Parin Shah, AR	
Revenue by	Shri Surendra Kumar, Sr. DR	
Date of Hearing	03.10.2024	
Date of Pronouncement	09.10.2024	

आदेश/ O R D E R

**PER MS. SUCHITRA KAMBLE, JUDICIAL MEMBER :**

This appeal filed by the Revenue is directed against the order of the Commissioner of Income-tax (Appeals)-12, Ahmedabad [hereinafter referred to as "CIT(A)" for short] dated 19.07.2021 passed under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as "the Act" for short] for the Assessment Year (AY) 2018-19.

2. The Grounds of appeal raised by the Revenue are as under :-

- “1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in holding that it was not permissible for the AO to separate the income of Rs.2,50,47,000/- and apply section 69 of the Act and consequently invoke amended provisions of 115BBE so as to compute tax @ 60% as provided therein.*
- 2. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) ought to have upheld the order of the A.O.*
- 3. It is, therefore, prayed that the order of the Ld. CIT(A) be set aside and that of the AO be restored to the above extent.”*

[2]

3. The assessee filed original return of income on 29.09.2018 declaring total income of Rs. 3,28,56,020/-. Subsequently, the case was selected for scrutiny under CASS complete scrutiny and accordingly notice u/s. 143(2) of the Act was issued on 20.09.2019 and duly served upon the assessee. Notice u/s 142(1) of the Act along with questionnaire was issued on 01.02.2021 and served upon the assessee. The assessee filed the reply which was taken into consideration by the Assessing Officer. The Assessing Officer observed that during the year, a survey was conducted on the assessee firm and a ledger was found and impounded from the assessee. Based on the said ledger, the assessee stated that the assessee received back a sum of Rs. 2.03 Cr. in cash which had been booked by it as 'labour and material expenses'. The assessee disclosed the income of Rs. 2.03 Cr. as unaccounted income and offered it for tax. Similarly, certain loose papers were impounded based on which assessee stated that a sum of Rs. 46,62,000/- had been received by it in cash as member's AUDA, AEC and parking charges which were recorded in its books of account. The Assessing Officer observed that assessee actually received Rs.2.03 Cr. from various suppliers and contractors as claimed by the assessee but not a single confirmation was received from those suppliers and contractors. Besides this, the assessee has not given the details of flat buyer who paid the cash for AUDA and AEC membership as well as parking charges. Thus, the Assessing Officer made addition of Rs.2,50,47,000/- as unexplained money under Section 69A of the Act.

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

[3]

5. The Ld. DR submitted that the assessee has not shown any details of the parties such as confirmation and the details of payment relating to the difference that of contractors and suppliers before the Assessing Officer as well as before the CIT(A). The Ld. DR submitted that the Assessing Officer categorically mentioned in assessment order that the assessee failed to give the details of flat buyer from whom the assessee received the cash relating to AUDA and AEC as well as parking charges. Thus, the Ld. DR submitted that the CIT(A) was not right in deleting the said addition.

6. The Ld. AR relied upon the order of the CIT(A) and submitted that all the details were given during the assessment proceedings as well as the said amount was shown in the books of account of the assessee. Thus, the Ld. AR submitted that the CIT(A) has rightly deleted the addition made by the Assessing Officer as Section 69A will not be applicable when the income is shown in the books of account and offered for tax.

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the books of accounts of the assessee clearly shows that the amount of Rs. 2,03,85,000/- being receipts from contractors and suppliers was reflected in the books as well as the amount of Rs. 46,62,000/- being AUDA, AEC charges as well as parking charges were also reflected in the books. There is no dispute raised by the Assessing Officer that this is not a business receipts as per the books. In fact, the assessee's books were accepted by the Assessing Officer and therefore, the application of Section 69A of the Act will not be attracted in the present case as the assessee fully explained the amounts in question through its books of accounts only. The contentions of the Ld. DR that

[4]

no details of confirmation and details of flat buyers were not given is not justifiable in the present case, once the Assessing Officer accepts the books of account of assessee in respect of the business receipt of the assessee. These are business receipts only and this was not doubted at any point by the Revenue. Thus, the CIT(A) rightly deleted the said addition and there is no need to interfere with the finding of the CIT(A). Hence, the appeal of the Revenue is dismissed.

8. In result, appeal of the Revenue is dismissed.

Order pronounced in the open Court on 09/10/2024 at Ahmedabad.

Sd/-

**(MAKARAND V. MAHADEOKAR)**  
**ACCOUNTANT MEMBER**

Ahmedabad, Dated 09/10/2024

**\*\*btk**

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

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

Sd/-

**(SUCHITRA R. KAMBLE)**  
**JUDICIAL MEMBER**

आदेशानुसार/ BY ORDER,

TRUE COPY

सहायक पंजीकार (Asstt. Registrar)  
आयकर अपीलीय अधिकरण  
ITAT, Ahmedabad