

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

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER
AND SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA No.3313/Mum/2024
Assessment Year: 2021-22**

Sanjay Mahipat Sakhale, Irla SV Road, 256, Prem Nagar Vile Parle, West Mumbai – 400 056, Mumbai, Maharashtra. PAN: BJKPS5654L	Vs.	ACIT, Central Circle 3(2), Mumbai
(Appellant)		(Respondent)

Assessee by : Shri Ganesh Shetty
Revenue by : Shri Bhangapatil Pushkaraj Ramesh, Sr. DR

Date of Hearing : 15.10.2024
Date of Pronouncement : 16.10.2024

ORDER

PER AMARJIT SINGH, ACCOUNTANT MEMBER:

This appeal of the assessee for the assessment year 2021-22 is directed against the order u/s 250 of the Income-tax Act, 1961 dated 13.07.2023 passed by the Id. Commissioner of Income-tax (Appeal)-51, Mumbai.

2. The grounds raised in the appeal read as under: -

“1. That the Id. C.I.T. (Appeals), NFAC has erred in confirming the alleged addition made by Id. Assessing Officer u/s.69A at Rs.6,00,000/- as unexplained money alleging Rs.50,000/- per month salary payment in cash by Shri Sanjay Kadam to the assessee appellant. The alleged addition made being wrong on facts and bad in law may be deleted.

2. That the Id. C.IT. (Appeals), NFAC has erred in confirming the alleged addition made by ld. Assessing Officer u/s.69 at Rs.1,85,000/- as unexplained investment based on whatsapp chat. The alleged addition made being wrong on fact and bad in law may be deleted.

3. That the Id. CIT (Appeals), NFAC has erred in confirming the alleged addition made by ld. Assessing Officer u/s.69A at Rs.85,85,048/ being Rs.11,96,837/-receivable and Rs.73,88,211/-old outstanding, wrongly treating these amounts as unaccounted income and unexplained money. The alleged addition made being wrong on fact and bad in law may be deleted.

4. That the Id. C.I.T. (Appeals), NFAC has erred in confirming the alleged addition made by ld. Assessing Officer u/s.69C at Rs.10,83,776/- wrongly treating the aggregate of total debit of Rs.10,01,076 and total credit of Rs.82,700/- as unexplained expenditure. The alleged addition made being wrong on fact and bad in law may be deleted.

5. That the Id. C.IT. (Appeals), NFAC has erred in confirming the alleged addition made by ld. Assessing Officer u/s.69A at Rs.29,00,000/- wrongly treating the proposed transaction remain to be executed as unaccounted income and unexplained money. The alleged addition made being wrong on fact and bad in law may be deleted.

6. That the Id. C.I.T. (Appeals), NFAC has erred in confirming the alleged addition made by ld. Assessing Officer u/s.69C at Rs.3,00,000/- wrongly treating the rent payment of Rs.25,000/- per month in cash by appellant to Shri Sanjay Kadam as unexplained expenditure.

7. That the Id. C.I.T. (Appeals), NFAC has erred in confirming the alleged addition made by ld. Assessing Officer u/s.69A at Rs.3,50,000/- wrongly treating the same as unaccounted income and unexplained money. The alleged addition made being wrong on fact and bad in law may be deleted.

8. That the Id. C.I.T. (Appeals), NFAC has erred in confirming the alleged addition made by ld. Assessing Officer u/s.69A at Rs.18,09,100/- wrongly treating the credits in bank account as unaccounted income and unexplained money. The alleged

addition made being wrong on fact and bad in law may be deleted.

9. That the appellant craves the leave to amend, alter, substitute any of the above appeal grounds and or to raise new or additional grounds of appeal at the time of hearing.”

3. Facts in brief are that the assessee filed the return of income declaring the total income of Rs.4,66,910/- on 26th December, 2021. The case was subjected to scrutiny assessment and notice u/s 143(2) of the Act was issued on 30th June, 2022. A search action us 132 of the Act was carried out in the case of Sanjay Kadam group on 8th March, 2022 and the assessee was also included in the search action. On the basis of information and documents found and seized during the course of search action, the Assessing Officer has made various additions u/s 69, 69A and other additions assessing the total income at Rs.1,62,79,830/- as follows: -

- (i) An addition of Rs 600000 being Rs.50000 per month and treated the same as unexplained money under section 69A of the Act.
- (ii) An addition an amount Rs 185000 based on the extract of the whatsapp chat as unexplained Investment under sec 69 of the Act.
- (iii) An addition an amount of Rs 1196837 receivable and Rs.7388211 as outstanding as unaccounted income and added the same to the total income of the assessee under section 69A of the Act.

- (iv) Treating the amount of Rs. 10,01,076/-being the total debit and Rs.82,700/- being the total credit as appearing and added the Aggregate of both the Amount i.e. Rs10,83,776/- as unexplained expenditure under section 69A of the Act.
 - (v) Treating the amount of Rs 29,00,000/- as cash given to Pintu and Pradeep and treated the same as unexplained money under section 69A the act and added to the same to the total income of the assessee.
 - (vi) In treating an amount of Rs 3,00,000/-being Rs.25,000/- per month as rent paid in cash to Sanjay Kadam as undisclosed expenditure and added the same to the total income of the assessee under sec 69 of the Act.
 - (vii) In treating an amount of Rs.3,50,000/- as cash received by assessee from Sanjay Manaji Kadam and added the same to the total income assessee under section 69A of the Act.
 - (viii) In treating the amount of Rs.18,09,100/- being the amount credited in the bank accounts as cash credits not disclosed in the books of accounts and added the same to the Income of the assessee under section 69A of the Act.
4. Aggrieved, the assessee filed appeal before the ld.CIT(A).

5. The ld.CIT(A) has dismissed the appeal of the assessee holding that the assessee had not made any compliance to the notice of hearing issued during the course of appellate proceedings.

6. Heard both the sides and perused the material on record. It is an undisputed fact that the ld.CIT(A) has not adjudicated the appeal filed by the assessee on merit since the assessee has failed to make any compliance before the ld.CIT(A). Before us, the ld. Counsel submitted that the assessee could not keep track on the notices issued on e-mail id filed in the Form 35 before the CIT(A) as the same was inactive. Therefore, the ld. Counsel requested that more opportunities be provided to the assessee at the level of first appellate authority to decide the various additions made by the AO on merit. We consider that neither the assessee has made any compliance before the first appellate authority nor the ld.CIT(A) has decided the appeal on merit as prescribed u/s 250(6) of the Income-tax Act, 1961.

7. Section 250(6) of the Act contemplates that the ld.CIT(A) would determine the point in dispute and record reasons on such point in support of his conclusion. Therefore, we restore the appeal of the assessee to the file of the ld.CIT(A) for deciding the issues afresh as contemplated u/s 250(6) of the Act, after affording three more opportunities to the assessee. The assessee is also directed to make compliance before the ld. CIT(A) without any

failure and update the changes, if any, in the e-mail id with the Revenue Authorities immediately.

8. In the result, the appeal of the assessee is allowed for statistical purposes only.

Order pronounced in the open court on 16.10.2024.

Sd/-

Sd/-

(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

(AMARJIT SINGH)
ACCOUNTANT MEMBER

Mumbai, Dated: 16.10.2024

dk

Copy to:

1. The Appellant:
2. The Respondent:
3. The CIT,
4. The DR

//True Copy//

By Order

Assistant Registrar
ITAT, Mumbai Benches, Mumbai