

**IN THE INCOME TAX APPELLATE TRIBUNAL
“E” BENCH MUMBAI**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No. 1735/Mum/2024
(Assessment Year: 2012-13)**

Kapil Ramnikalal Kothari Flat No.C-202, 2 nd Floor, Wing C, Gundecha Trillum Off Western Express, Borivali (E), Mumbai.	Vs.	ITO – 32(2)(2) Room No. 716, 7 th Floor, Kautilya Bhavan C-41 to C-43, G Block BKC, Bandra (E), Mumbai – 400051.
PAN/GIR No. AJTPK1697D		
(Applicant)		(Respondent)

Assessee by	Shri Sitish Modi
Revenue by	Shri Hemanshu Joshi, Sr. DR

सुनवाई की तारीख/Date of Hearing	28.11.2024
घोषणा की तारीख/Date of Pronouncement	18.12.2024

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 23.02.2024, passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ('Ld. CIT(A)'), for the assessment year 2012-13.

2. At the very outset, the Ld. AR stated at bar that he do not want to press ground No. 1, and in this regard he has

made an endorsement on the court file itself, therefore considering the said statement of the Ld. AR the ground No. 1 of appeal stands dismissed as not pressed .

3. The only ground raised and pressed by the assessee is ground No. 2, which relates to challenging the order of the Ld.CIT(A) in confirming the addition of Rs. 20,07,904/- made by the Ld.AO u/s 69 of the Act.

4. On the other hand, the Ld. DR relied upon the orders passed by the revenue authorities.

5. We have heard the counsels of both the parties and we have also perused the material placed on record and the orders passed by the revenue authorities. From the records, we noticed that as per the facts of the present case, the assessee along with three others have purchased immovable property for a consideration of Rs. 1,25,00,000/- and since according to the Ld.AO the source for the same was not disclosed by the assessee qua his share of Rs. 50,00,000/-. Therefore, after considering the reply of the assessee, the order of the assessment was completed u/s 143(3) r.w.s 147 of the Act, thereby making addition of Rs. 50,00,000/- u/s 69 of the Act.

6. On appeal by the assessee, the Ld.CIT(A) deleted the part addition and confirmed the addition of Rs. 20,07,904/- as the CIT(A) was of the view that “on examination of the

bank accounts of the assessee from which a sum of Rs. 20,07,904/- was transferred to the seller in four trenches show that all the transactions were preceded by certain transfers in those accounts and the assessee had not given any explanation for the source of such transfer / credits in his bank accounts except mentioning the same as his own contribution”.

7. Now before us, at the very outset, the Ld. AR submitted that no explanation in this regard was ever called for by the Ld.AO or CIT(A) and the assessee is in a very well position to explain the sources of such transfer / credits in his bank account, if the matter is restored to the Ld.AO. For which the Ld. DR has no objection.

8. Be that as it may, Bench is of the view that the controversy with regard to non explanation of sources of such transfer / credits in the bank account of the assessee is a factual matter which needs verification. Therefore, Bench has decided to restore the matter back to the file of the Ld.AO to verify the source of such transfer / credits of Rs. 20,07,904/- in the bank account of the assessee and to pass a fresh order. Thus, the appeal of the assessee is restored to the file of AO to decide it afresh by providing one more opportunity of hearing to the assessee. The assessee shall not seek any adjournment on frivolous grounds and remain cooperative during the course of proceedings and the

appeal of the assessee is thus allowed for statistical purposes.

9. Before parting, we make it clear that our decision to restore the matter back to the file of the AO shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the AO independently in accordance with law.

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

Order pronounced in the open court on 18.11.2024.

Sd/-

(PRABHASH SHANKAR)
ACCOUNTANT MEMBER

Sd/-

(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 18/11/2024

KRK, PS

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

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

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai