

आयकरअपीलीयअधिकरण, एस.एम.सीन्यायपीठ,राँची
IN THE INCOME TAX APPELLATE TRIBUNALS MCBENCH, RANCHI

BEFORE SHRI GEORGE MATHAN, JM
&
SHRI RATNESH NANDAN SAHAY, AM

आयकरअपीलसं./ITA No.14/RAN/2024

(निर्धारणवर्ष / Assessment Year :2020-2021)

Bimla Devi Agarwal, 35A, Tirumala Apartment, Ballygunge Park Road, Kolkata	Vs.	ACIT, Central Circle-2, Ranchi
स्थायीलेखासं./PAN No. : ABPPA0215P		
(अपीलार्थी/ Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारितीकीओरसे /Assessee by	:	Shri Devesh Poddar, Adv.
राजस्वकीओरसे /Revenue by	:	Shri Khubchand Pandya, Sr.DR
सुनवाईकीतारीख/ Date of Hearing	:	30/04/2025
घोषणाकीतारीख/ Date of Pronouncement	:	30/04/2025

आदेश / O R D E R

Per Bench:

This is an appeal filed by the assessee against the order of the Id. CIT(A), Patna-3, dated 29/12/2023, passed in ITBA/APL/S/250/2023-24/1059209271(1) for the assessment year 2020-2021.

2. Shri Devesh Poddar, Advocate appeared on behalf of the assessee. Shri Khubchand Pandya, Sr. DR appeared on behalf of the revenue.

3. It was submitted by the Id. AR that the assessment order is dated 24.09.2021 but the same has been served only on 18.10.2021. It was the submission that the proceedings which are opened even as on 10.10.2021 and consequently the assessment itself is time barred. It was

further submitted that the assessee got a good case on merit also and he would like to argue on merit of the case. It was the submission that the only addition on merit was an addition of Rs.8,57,000/- made by the AO on the basis of certain whatsapp messages found in the mobile phone of assessee's son namely Shri Manish Agarwal. It was submitted that there was an assessment in the case of Shri Manish Agarwal also and this addition has not been considered in his hands. It was the submission that no documentation or evidence connecting to whatsapp messages to the assessee has been found nor produced by the revenue. It was the submission that the addition as made by the AO and as confirmed by the Id. CIT(A) deserves to be deleted. Id. AR also relied upon the decision of the coordinate bench of the Tribunal in the case of Mr. A Johnkumar Vs. DCIT, passed in ITA No.3028/Chny/2019, dated 13.05.2022 as also the decision in the case of Shanker Nebhumal Uttamchandani, reported in [2024] 161 taxmann.com 536 (Surat-Trib.)(28.02.2024), wherein both the coordinate benches of the Tribunal have held that whatsapp messages cannot be the sole foundation of an addition unless it is supported with other documentary evidence.

4. In reply, Id. Sr. DR vehemently supported the orders of the Id. Assessing Officer and Id. CIT(A).

5. We have considered the rival submissions. A perusal of the facts in the present case clearly shows that the assessment has also been done in the case of Shri Manish Agarwal, the son of the assessee, in whose whatsapp the said financial transactions have been found. Admittedly,

none of these transactions is relating to the assessee. Further no documentation nor documentary evidence connecting these transactions to the assessee has also been found or produced by the revenue. In these circumstances, as the transaction has not been found in assessee's whatsapp but has been found in the assessee's son's whatsapp, who is an independent assessee and as such message is not supported nor corroborated with any documentary evidence, no addition on the basis of such whatsapp message can be made in the hands of the assessee. Thus, the addition made by the AO and confirmed by the Id.CIT(A) stands deleted.

6. In the result, appeal of the assessee is allowed.

Order dictated and pronounced in the open court on 30/04/2025.

Sd/-
(RATNESH NANDAN SAHAY)
लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-
(GEORGE MATHAN)
न्यायिक सदस्य / JUDICIALMEMBER

राँचीRanchi; दिनांक Dated 30/04/2025

Prakash Kumar Mishra, Sr.P.S.

आदेशकीप्रतिलिपिअग्रहित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant-
2. प्रत्यर्थी/ The Respondent-
3. आयकरआयुक्त(अपील) / The CIT(A),
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण,राँची/ DR, ITAT, Ranchi
6. गार्डफाईल / Guard file.

सत्यापितप्रति //True Copy//

आदेशानुसार/BY ORDER,

(Senior Private Secretary)
आयकरअपीलीयअधिकरण, राँची/ ITAT, Ranchi