

IN THE INCOME TAX APPELLATE TRIBUNAL

"F" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No.682/MUM/2025
(Assessment Year : 2010-11)

ITO – 27(3)(1),,

Room No.422, 4th Floor,
Tower No.6, VRSCCL,
Vashi Railway Station,
Mumbai - 400703

..... Appellant

v/s

Shriganesh Developers,

B-104, Swami Jairamdas,
R.C. Marg, Chembur
Mumbai – 400074
PAN : AAQFS8866G

..... Respondent

Assessee by : None

Revenue by : Ms. Kavitha Kaushik, Sr.DR

Date of Hearing – 24/06/2025

Date of Order - /06/2025

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The Revenue has filed the present appeal against the impugned order dated 10/12/2024, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [*learned CIT(A)*], for the assessment year 2010-11.

2. When this appeal was called for hearing, neither anyone appeared on behalf of the assessee, nor any application seeking adjournment was filed. From the perusal of the record, we find that the notice sent to the assessee

through registered post was also returned unserved. Therefore, we proceed to decide the present appeal on the basis of the material available on record and after hearing the learned Departmental Representative ("*learned DR*").

3. In this appeal, the Revenue has raised the following grounds: -

"a. "Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in allowing the appeal of the assessee by deleting the additions made by the AO on account of cash deposit amounting to Rs. 4,08,60,000/- on the basis of additional evidences submitted by the appellant during appellate proceedings.

b) "Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified and correct in accepting the additional evidences submitted by the assessee during appellate proceedings without even calling for remand report or sharing the additional evidence with the AO"?

c. "Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in not appreciating the facts recorded by the AO in the assessment order for the assessee being non responsive during the assessment proceedings and without mentioning any genuine reason for such action, accepted and admitted the additional evidences submitted by the appellant while allowing the appeal."

d. "Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in accepting the contention of the appellant without verifying the fact that while filing return of income Shri Abhishek Suresh Asrani, PAN: AHGPA9878H, for A.Y. 2010-11 has disclosed the total gross receipt of business or profession during the period at Rs.3,34,10,875/- only as against the cash deposit of Rs.4,08,60,000/-."

4. During the hearing, the learned DR submitted that the learned CIT(A), vide impugned order, deleted the addition of Rs.4,08,60,000/- made by the AO on account of cash deposited in bank account after considering the documents furnished during the appellate proceedings, without calling for any remand report or sharing those evidences with the Assessing Officer ("*AO*").

5. Having considered the submissions of the learned DR and perused the material available on the record, we find that for the year under consideration, the assessee did not file its return of income. Thereafter, the case was

reopened under section 147 of the Act and a notice under section 148 of the Act was issued on 31.03.2017. Even in response to the notice issued under section 148 of the Act, the assessee did not file its return of income. From the perusal of the assessment order, we find that the statutory notices issued by the AO under section 143(2) and section 142(1) were also not responded to by the assessee. Accordingly, the AO proceeded to conclude the assessment on a best judgment basis under section 144 of the Act. Since, as per the ITS details, it was found that the assessee had deposited cash to the tune of Rs. 4,08,60,000/- in its account maintained with Mahanagar Co-operative Bank Ltd., the AO vide order dated 27.11.2017 passed under section 144 r.w.s. 147 of the Act treated the amount of Rs.4,08,60,000/- as unexplained cash credit and added the same to the total income of the assessee.

6. During the appellate proceedings before the learned CIT(A), one Mr. Abhishek Suresh Asrani claimed that the assessee firm was dissolved w.e.f 31.03.2004 and the bank account in which the cash was deposited was opened by using his PAN. Therefore, Mr. Asrani claimed before the learned CIT(A) that the bank account did not belong to the firm, but the same belongs to him. It was further claimed that the transactions made in the bank account were duly disclosed by him in his individual return. From the perusal of the impugned order, it is evident that information/documents as placed on record by Mr. Asrani were neither forwarded to the AO nor was any remand report on the same called by the learned CIT(A). It is evident that after considering these documents, the learned CIT(A), vide impugned order, directed the AO to delete the addition made vide assessment order.

7. Therefore, having perused the material available on record, we deem it appropriate to restore this issue to the file of the jurisdictional AO for *de novo* adjudication, as per law, after examination of the fact whether the bank account in which the cash deposit was found belongs to Mr. Asrani or to the assessee firm. With the above directions, the impugned order is set aside, and the grounds raised by the Revenue are allowed for statistical purposes.

8. In the result, the appeal by the Revenue is allowed for statistical purposes.

Order pronounced in the open Court on 24/06/2025

Sd/-

**NARENDRA KUMAR BILLAIYA
ACCOUNTANT MEMBER**

Sd/-

**SANDEEP SINGH KARHAIL
JUDICIAL MEMBER**

MUMBAI, DATED: /06/2025

Prabhat

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar
ITAT, Mumbai