

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI

BEFORE SHRI G.S.PANNU, ACCOUNTANT MEMBER

ITA No. 2292 /MUM/2015
(Assessment Year : 2007-08)

Income Tax Officer-32(2)(3),
Room No.305-B, 3rd Floor,
C-13, Pratyakshakar Bhavan,
Bandra Kurla Complex, Bandra(E),
Mumbai 400 051.

... Appellant

Vs.

Shri Mitesh K. Jain,
A-72, Ashiana Towers,
Sodawala Lane, Boriwali (W),
Mumbai 400 012
PAN: ADDPJ 8448B

.... Respondent

Appellant by : Shri A.K.Kardam
Respondent by : Shri Nitesh K. Jain

Date of hearing : 12/07/2016
Date of pronouncement : 12/07/2016

ORDER

The captioned appeal filed by the Revenue pertaining to assessment year 2007-08 is directed against an order passed by CIT(A)-44, Mumbai dated 23/01/2015, which in turn arises out of an order passed by the Assessing Officer under section 144 r.w.s. 147 of the Income Tax Act, 1961 (in short 'the Act') dated 26/03/2013.

2. In this appeal, Revenue has raised the following Grounds of appeal.

(i) "On the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in considering 3% of the deposits against 20%

estimated by the A.O. as fair income of the assessee in the absence of any material evidence on record."

(ii) "On the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in arriving at cash deposits of the assessee at Rs.49, 75,300/- instead of Rs .1,35,86,6841 -."

(iii) "On the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in taking into account only one bank account instead of two bank accounts held by the assessee for consideration."

(iv) "On the facts and in the circumstances of the case and in law, the Ld CIT(A) erred in not appreciating the fact that the assessee did not cooperate with the department in connection with assessment proceedings for the preceding years and current assessment year and modus operandi of his business activities is unknown."

(v) "The appellant prays that the order of the Ld CIT(A) on the above grounds be set aside and that of the A.O. be restored."

(vi) The appellant craves leave to amend or alter any ground or add a new ground."

3. At the time of hearing, the appellant furnished a copy of the order of the Tribunal in ITA No.2168/Mum/2015 dated 01/07/2016, whereby for the instant assessment year the impugned assessment order dated 26/03/2013 has been quashed on the ground of invalidity of the proceedings initiated under section 147 of the Act. As a consequence, the appeal of Revenue is dismissed, as infructuous.

The above decision was pronounced in the open court in the presence of both the parties at the time of hearing on 12/07/2016.

Sd/-
(G.S. PANNU)
ACCOUNTANT MEMBER

Mumbai, Dated 12/07/2016

Vm, Sr. PS

Copy of the Order forwarded to :

1. The Appellant ,
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai