

IN THE INCOME TAX APPELLATE TRIBUNAL "G" BENCH, MUMBAI  
**BEFORE SHRI D. KARUNAKARA RAO, ACCOUNTANT MEMBER AND  
SHRI C.N. PRASAD, JUDICIAL MEMBER**

I.T.A. No.703/M/2014 (Assessment Year: **2010-2011**)

Mr. Govind Bakrimal Bajaj HUF, Flat No.53, 33-B, Shewa Apartment, 3 <sup>rd</sup> Road, Khar (W), Mumbai – 400 052.	बनाम/ Vs.	The Income Tax Officer- 19(1)(3), Mumai.
स्थायी लेखा सं./PAN : AAFHG0918J		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Appellant by	:	Shri A.P. Sinha, AR
प्रत्यर्थी की ओर से/ Respondent by	:	Shri Airiju Jaikaran, DR

सुनवाई की तारीख / Date of Hearing : 16.06.2016

घोषणा की तारीख /Date of Pronouncement : 12.08.2016

**आदेश / O R D E R**

**PER D. KARUNAKARA RAO, AM:**

This appeal filed by the assessee on 31.1.2014 is against the order of the CIT (A)-30, Mumbai dated 31.12.2013 for the assessment year 2010-2011. In this appeal, assessee raised the following grounds which read as under:-

"1. The CIT (A) erred while not deleting the addition of Rs. 75,91,000/- which was made u/s 68 of the Act.

1(a) The Ld CIT (A) erred while passing the order totally on wrong facts.

1(b) The Ld CIT (A) erred while sustaining the addition by holding that the appellant has shown and income of Rs. 7,586/- (this was the amount of tax payable) in the AY 2009-2010 whereas he has shown the income of Rs. 2,23,650/- and this was not his gross receipt as has been held.

1(c) The Ld CIT (A) erred held while sustaining the addition of Rs. 75,96,000/- by holding that " there is no evidence to show that the copy of capital account for the FY 2008-2009 was filed with the return of income of the AY 2009-10. He failed to appreciate that the return of income is filed without any annexure.

1(d) The Ld CIT (A) erred while not appreciating that an amount of Rs. 76,96,370/- has been shown as cash in hand as on 31.3.2009 in the balance sheet. Out of this an amount of Rs. 75,96,000/- was deposited by the appellant in four different bank accounts.

1(e) The Ld CIT (A) erred while not at all considering the direct case laws on the issue, that if the deposit has been made in the bank account number addition can be made u/s 68 of the Act."

2. Briefly stated relevant facts of the case are that the assessee is engaged in the business of 'estate agency'. Assessee filed the return of income declaring the

total income of Rs. 1,83,437/-. Assessment was completed u/s 143(3) of the Act and the assessed income was determined at Rs. 77,76,792/- which includes a couple of additions viz (i) addition of Rs. 75,91,000/- on account of unexplained cash credit u/s 68 of the Act and (ii) addition of Rs. 2,355/- was made on account of interest income. Aggrieved with the said addition of the AO, assessee carried the matter in appeal before the first appellate authority.

3. During the proceedings before the first appellate authority, after considering the submissions of the assessee, CIT (A) dismissed the appeal. Again aggrieved with the said addition of the CIT (A), assessee is in further appeal before the Tribunal by raising the above mentioned grounds.

4. During the proceedings before us, at the outset, Ld Counsel for the assessee filed a letter dated 16.6.2016 and mentioned that this is a fit case for remanding the matter to the file of the AO for fresh adjudication. In this regard, he read out the contents of the said letter and the same read as under:-

*"The Hon'ble CIT (A) sustained the addition of Rs. 75,91,000/- on the following premise:-*

- (a) Person having annual gross receipts of not more than Rs. 3 lakhs (this was gross total income and not gross receipt) cannot deposit huge cash;*
- (b) The assessee did ;not disclose income credited in the Accounts.*

*The assessee had disclosed an amount of Rs. 14,687/- as interest income (middle para of para 3 of CIT (A)'s order).*

*The AO made addition of Rs. 2,355/- (para 4.1. of page 7 of AO)*

*Your honours are requested to send the issue to the file of the AO to ascertain whether the deposit in bank accounts have been made out of opening balance of 1.4.2009 or not. Alternatively, the addition made be quashed."*

5. On the other hand, Ld DR for the Revenue relied on the orders of the Revenue Authorities.

6. We have heard both the parties and perused the orders of the Revenue Authorities as well as the relevant material placed before us. On perusal of the letter filed the Ld Counsel for the assessee, we are of the opinion, it is the interest of justice, the matter may be remanded to the file of the AO, who shall decide the issue afresh after granting a reasonable opportunity of being heard to the assessee

as per the principles of natural justice. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 12<sup>th</sup> August, 2016.

Sd/-

**(C.N. PRASAFD)**

JUDICIAL MEMBER

मुंबई Mumbai; दिनांक 12.08.2016

व.नि.स./ OKK, Sr. PS

Sd/-

**(D. KARUNAKARA RAO)**

ACCOUNTANT MEMBER

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

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

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / **ITAT, Mumbai**