NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

TAXC No. 73 of 2019

- Deputy Commissioner of Income Tax -2(1), Central Revenue Building, Civil Lines, Raipur, Chhattisgarh.

---- Appellant

Versus

- M/s. Aarti Infrastructure and Buildcon Ltd., Shankar Nagar, Raipur (C.G.)

---- Respondent

For Appellant/Revenue : Shri Amit Chaudhari and Ms. Naushina Ali, Advocates

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Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

P.R. Ramachandra Menon, Chief Justice

21.01.2020

1. The appeal is arising from the order dated 15.02.2018 passed by the Income Tax Appellate Tribunal, Raipur Bench, Raipur in IT(SS)A No.30/RPR/2013.

2. On filing the return by the Assessee declaring a total income of Rs.2,20,25,990/-, the case was selected for scrutiny/assessment and the proceedings were completed in terms of Section 143(3) of the Income Tax Act, 1961 whereby an addition to the extent of Rs.9,17,91,005/- was made and assessed accordingly.

3. The course and proceedings pursued by the Department, made the Assessee to feel aggrieved, who filed an appeal before the Commissioner (Appeals) where the appeal was allowed. This made the Department to take up a matter before the Tribunal referring to the facts and figures, where interference was declined and the appeal was dismissed. This, in turn is put to challenge in this appeal preferred by the Revenue, suggesting the following questions as the substantial questions of law :

> "1. "Whether on the point of law and on the facts and circumstances of the case, the ITAT was justified in confirming the order of the Id. CIT(A) who has deleted the addition of Rs. 9,17,91,005/- by ignoring the facts brought on record by the AO that as per the transactions recorded in the seized pen drive, the sales consideration of the land reflected there is to the tune of Rs.12,13,11,005/- and not Rs. 2,95,20,000/-, thereby rendering the decision which is perverse?"
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> 2. "Whether on the point of law and on the facts and circumstances of the case, the ITAT was justified in confirming the deletion of addition of Rs. 9,17,91,005/- by the Id. CIT(A), thereby placing reliance on the twisted and contradictory finding of the CIT(A), as the CIT(A) having concurrent powers of the AO u/s 250(4) of the Act ignored the glaring discrepancy of the facts of transaction on record that though the impugned purchaser of land M/s. Purandar Promoters and Developers Pvt. Ltd. was incorporated on 23.05.2006 yet the payment of Rs.1,80,00,000/- was made on 20.01.2006 and thereby ignoring the discrepancies in the

documentary evidences brought on record, and ignoring the ratio of precedent of preponderance of probability as has been laid down by the Hon'ble Supreme Court in the land mark case of Sumati Dayal vs. CIT (1995, 214 ITR, 801 SC) ?"

3. "Whether on the point of law and on the facts and circumstances of the case, the ITAT was justified in confirming the order of the CIT(A) who has erred by giving a finding which is contrary to the ratio of the decision of the Hon'ble Supreme Court in the case of CIT vs. S. Ajit Kumar in Civil Appeal No.10164 of 2010, wherein the Hon'ble Supreme Court has held that the material found from the premise of connected person can be utilized as evidence for making addition in the income of the assessee ?"

4. Heard Shri Amit Chaudhari, the learned standing counsel for the Department at length.

5. Considering the nature of pleadings raised and also the discussion made by the Tribunal in detail, we are of the view that the decision has been rendered by the Tribunal clearly on question of facts and it does not involve any question of law; much less any substantial question of law.

6. This appeal is devoid of any merit, so as to have it entertained in terms of Section 260A of the Income Tax Act, 1961. Interference is declined and appeal stands dismissed.

Sd/- Sd/-

(P.R. Ramachandra Menon)
Chief Justice

(Parth Prateem Sahu)
Judge

Chandra