

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Tax Case No. 100 of 2019**

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

---- Appellant**Versus**

M/s. Ashok Vihar, Shop No. 1 & 2, Jeevan Bima Marg, Pandri, District Raipur, (C.G.)

---- Respondent

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

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****05.02.2020**

1. The appeal is arising from the order dated 01.07.2019 passed by the Income Tax Appellate Tribunal, Raipur Bench, Raipur in IT(SS)A No.173/RPR/2014.
2. On filing the return by the Assessee declaring a total income of Rs.2,54,880/-, 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.1,25,000/- was made by disallowing the expenses and further added Rs. 6,37,74,442/- towards the undisclosed income from sale of land, and assessed the income to the tune of Rs. 6,41,54,320/-.

3. The course and proceedings pursued by the Department made the Assessee to feel aggrieved, who filed an appeal before the Commissioner of Income Tax (Appeals) where the appeal was allowed deleting the addition of Rs. 6,37,74,442/-. This made the Appellant-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 points of law and facts and circumstances of the case, the learned ITAT was justified in confirming the order of the CIT(A) deleting the addition of Rs. 6,37,74,442/- thereby ignoring the facts brought on records by the AO that as per the transaction recorded in the seized pen drive and loose sheets showed the profit on sale of that amount, thereby rendering the decision which is perverse?

2. Whether in law and on facts of the case, the learned ITAT was justified in confirming the order of the CIT(A) deleting the addition of Rs. 6,37,74,442/- treating the entries made as fake, ignoring the facts that the entries made in the seized materials are matching with the business affairs of the assessee and ignoring the probability that no unrelated party can have such specific information, thereby rendering the decision which is perverse?

3. Whether on the point of law and on the facts and circumstances of the case, the learned ITAT was justified in giving a twisted and contrived finding 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 landmark case of Sumati Dayal v. CIT (1995 214 ITR 801 SC) thereby rendering the decision which is perverse?

4. Whether on the point of law and on the facts and circumstances of the case, the learned ITAT was justified in accepting the finding of the CIT(A) that there is no evidentiary value of the transactions as reflected in the seized pen drive during the course of

search and seizure action u/s 132 of the Act, thereby ignoring the presumption of law as per the substantive legal provisions u/s 132(4A) of the Act, thereby rendering the decision which is perverse?

5. Whether on the point of law and on the facts and circumstances of the case, the learned ITAT was justified in confirming the order of the learned 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 v. 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, thereby rendering the decision which is perverse.”

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 the appeal stands dismissed.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge