

**IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
SHRI BIJAYANANDA PRUETH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1075/SRT/2024

Assessment Year: (2017-18)

(Physical Hearing)

Shree Kuberji Developers, 4, Shree Kuberji Corporate House, Khana Kuva Road, Sahara Darwaja, Surat - 395002	Vs.	The ACIT, Circle – 3(2), Surat New Circle – 1(1)(1), Surat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ABQFS1837E		
(Appellant)		(Respondent)

Appellant by	Shri Ramesh Malpani, CA
Respondent by	Shri Mukesh Jain, Sr. DR
Date of Hearing	13/01/2025
Date of Pronouncement	16/01/2025

आदेश / O R D E R

PER BIJAYANANDA PRUETH, AM:

This appeal by assessee emanates from the order dated 30.08.2024 passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short, “the Id. CIT(A)”] for the assessment year (AY) 2017-18.

2. The grounds of appeal raised by the assessee are as follows:

“1. That on the facts and in the circumstances of the case as well as in law, the Id. CIT(A) has erred in upholding the addition of Rs.7,78,070/- on account of undisclosed rent received as per Form 26AS, whereas it was explained that the figure of rent in Form 26As was wrong and erroneous.”

3. The facts of the case in brief are that assessee filed original return on 27.10.2017, declaring total income at Rs.24,22,280/-. Subsequently,

assessee filed revised return on 31.03.2018, declaring total income at Rs.1,09,93,760/-. The case was selected for scrutiny under CASS. On perusal of 26AS and details filed by assessee, it was found by Assessing Officer (in short, 'AO') that there is a mismatch between the receipts as per 26AS and the return of income filed by assessee. The assessee had shown rent of Rs.9,41,930/- but as per 26AS the rent received from M/s. Ashish Publicity was Rs.17,20,000/- on which TDS was also deducted. The assessee was issued show cause notice which was not replied to. Hence, AO added the difference of Rs.7,78,070/- [17,20,000 – 9,41,930] to the total income. He also added undisclosed interest income of Rs.15,902/-.

4. Aggrieved, the assessee filed appeal before the CIT(A). The assessee submitted that the prayer of the rent i.e., M/s Ashish Publicity filed TDS return containing details of two years rent at a time and therefore, amount of Rs.17,20,000/- is reflected in Form 26AS. This amount includes rent of Rs.8,00,000/- for AY.2016-17 and Rs.9,20,000/- for AY.2017-18. The assessee had shown Rs.8,00,000/- in AY.2015-16 and Rs.9,20,000/- in AY.2017-18. The CIT(A) did not accept contention of the assessee because it failed to furnish any lease agreement with M/s Ashish Publicity to support its claim. The CIT(A) dismissed the appeal of the assessee.

5. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. At the outset, learned Authorized Representative (Id. AR) of

the assessee submitted that rent of two years were paid by M/s Ashish Publicity and the same was offered in AY.2016-17 (Rs.8,00,000/-) and 2017-18 (Rs.9,20,000/-). He submitted that the matter may be remitted to the AO for verification of assessee's claim.

6. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) for the revenue relied on the orders of the lower authorities.

7. We have heard both the parties and perused the materials available on record. The Id. AR contended that total rent of Rs.17,20,000/- was paid by M/s Ashish Developers for FY.2015-16 and 2016-17 (AY.2016-17 and 2017-18). Rent of Rs.8,00,000/- pertains to AY.2016-17 and Rs.9,20,000/- pertains to the year under consideration (AY.2017-18). He submitted that assessee has shown the above rents in the respective assessment years. After considering the facts of the case and claim of the assessee before us, we deem it proper to set aside the matter to the file of AO to verify claim of the assessee that rent of Rs.8,00,000/- was shown by assessee in AY.2016-17. If it is offered for taxation in AY.2016-17, the AO should reduce the said rental income from the income of AY.2017-18. As per Rule 37BA(3) of IT Rules, 1962, credit for tax deducted at source and paid to the Central Government, shall be given for the assessment year for which such income is assessable. The AO should, therefore, withdraw the credit of TDS claimed on total rent of Rs.17,20,000/- in the current assessment year after

verification in respect of the rent offered for taxation for the preceding AY.2016-17. The assessee is directed to furnish all the details in support of his claim before the AO. For statistical purposes, the appeal of the assessee is treated as allowed.

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

Order is pronounced on 16/01/2025 in the open court.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat

दिनांक/ Date: 16/01/2025

SAMANTA

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

// TRUE COPY //

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Surat

