

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD**

(through web-based video conferencing platform)

BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT

ITA No. 875/Ahd/2019

Assessment Year : 2016-17

Taheri Hatim Sarsanwala, 5 th Floor, Kairos, Opp. Gandhi Labour Institute, Drive-in-Road, Ahmedabad-52 PAN : BMSPS 4189 M	Vs.	Asst. Commissioner of Income-Tax, Circle International Taxation, Vadodara
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri Sanjay R. Shah, CA
Revenue by :		Shri V.K. Singh, Sr DR

सुनवाई की तारीख/Date of Hearing : 25/11/2021

घोषणा की तारीख /Date of Pronouncement: 01/12/2021

आदेश/ORDER

The assessee is in appeal before the Tribunal against the order of learned Commissioner of Income-Tax (Appeals)-13, Ahmedabad ["CIT(A)" in short] dated 25.03.2019 passed for Assessment Year 2016-17.

2. The solitary grievance of the assessee is that the leaned CIT(A) has erred in confirming the disallowance of Rs.1,20,000/-, which was added by the Assessing Officer by making the disallowance of assessee's claim under Section 24(a) of the Income-Tax Act, 1961 ("the Act" in short).

3. The brief facts of the case are that the assessee has filed his return of income on 01.03.2017 declaring total income at Rs.6,21,430/-. The computation of income is available on page No.2 of the paper-book. The assessee has disclosed the house property income, i.e. (i) Rs.4,43,760/- from Showroom No.2 D & C Kairos, Kairos, Opp. Mahatma Gandhi Labour Institute, Drive-in-Road, Ahmedabad and (ii) Rs.4,00,000/- from Flat No.C2-1116 at Shobha Ivory, A-Wing, Raviraj Astria, Kondhwa, Pune. The assessee has claimed standard deduction @ 30% of the gross rent under Section 24(a) of the Act. Such

deduction was disallowed to the assessee by the Assessing Officer. He made an addition of Rs.2,53,128/- .

4. On appeal, the assessee filed detailed written submission which has been reproduced by the First Appellate Authority. The learned CIT(A) thereafter recorded the following findings:-

"7. During the course of appellate proceedings, the appellant has produced copy of Rent Agreement with respect to the property as mentioned below:-

Showroom No.2 at Kairos, Gurukual Road, Ahmedabad - 4,43,760

The same has been verified from bank account statements and found to be correct.

The AO is directed to allow claim of deduction u/s 24(a) of the IT Act, 1961 against rent income offered by the Appellant on the said property showroom No.2 at Kairos, Gurukual Road, Ahmedabad.

7.1 With regards to the second property

Shop No.7 at Raviraj Astria, Pune - 4,00,000

the Appellant has submitted self prepared rent receipts without signature of the tenant, in spite of ample opportunities provided to the Applicant for submission of some cogent evidences like Rent agreement. The applicant could not submit any documentary evidences to establish the nature of receipt of income or a copy of rental agreement to establish that the income offered by the appellant was on account of rent from the said property. Further, even the amount received is not uniform and recurring monthwise. Therefore in the absence of cogent evidence, claim of deduction u/s 24(a) of the IT Act, 1961 cannot be allowed against the impugned property "Shop No.7 Raviraj Astria, Pune". This ground of appeal is partly allowed."

5. With the assistance of learned representatives, I have gone through the record carefully. A perusal of the above findings would disclose that the assessee has two house properties from where he got rental income of Rs.4,43,760/- and Rs.4,00,000/-. He claimed standard deduction 30% under

Section 24(a) of the Act. This was disallowed by the Assessing Officer in the assessment proceedings; however, on appeal, the learned CIT(A) has allowed the standard deduction with regard to the rental income earned from Ahmedabad property but disallowed the same from the rental income of Pune flat. The reasoning given by both the Revenue Authorities are without any coherence with the nature of the dispute. The learned First Appellate Authority, in its findings extracted supra, disputes the receipt of rental income, viz. the assessee failed to give rent agreement; the receipts are issued by the assessee etc. To my mind, firstly, the Assessing Officer ought to have called for the tenant and ought to have ascertained the position as to whether this flat was occupied by anybody. A report could be called for from the Society at C2-1116 at Shobha Ivory, Pune. Further report could be called for as to whether any electricity consumption was there or not. The assessee has been stated to be a non-resident individual and having income from rent of house properties. No inquiry was conducted and gross rental income is being assessed under the garb of disbelieving house property income. To my mind, the reasoning given by the Revenue is not sufficient to reject the claim of the assessee. Therefore, I allow this appeal and direct the Assessing Officer to grant standard deduction even on the second house property income, i.e. on the rental income of Rs.4,00,000/- received by the assessee from letting out Flat No.C2-1116 at Shobha Ivory-Pune.

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the Court on 1st December, 2021 at Ahmedabad.

Sd/-

(RAJPAL YADAV)
VICE PRESIDENT

Ahmedabad; Dated 01/12/2021

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आदेश की प्रतिलिपि अग्रिम / Copy of the Order forwarded to :

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

आदेशानुसार / BY ORDER,

TRUE COPY

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad