

## Loose sheets are not books

Unexplained investment in agricultural lands - loose paper seized relied upon

ITAT AHMEDABAD, THE ACIT, CIRCLE-9, AHMEDABAD VERSUS SHRI GHANSHYAM P. HIRPARA; AND THE DCIT, CIRCLE-3 (3) , AHMEDABAD VERSUS SHRI JAYESH RAVJIBHAI DOBARIYA, No.- ITA No. 2955 & 1425/Ahd/2014 And IT (SS)A No: 39/Ahd/2015 & C.O. No: 52/Ahd/2015, IT (SS)A No: 41/Ahd/2015 & C.O. No: 51/Ahd/2015, IT (SS)A No: 259/Ahd/2015 & C.O. No: 21/Ahd/2016

Dated.- February 9, 2024

We have gone through the relevant record and in the impugned order. In this case a search was carried out in the case of Shri Pareshbhai Babubhai Patel, Land Broker on 23.05.2008. During the course of proceedings certain documents/loose paper were found and seized as per Annexure A-5 Pages 72 & 73. It was noticed from these pages that the following land transaction was carried out @ Rs.9,00,000/- per bigha and payment from bank made of Rs. 1,05,35,040/- and remaining in cash and therefore assessment of partners were re-opened and assessed. However, since the land pertains to assessee firm the same addition is require to be made in the case of assessee and a show cause notice was issued to the assessee and it is mentioned that you have purchased land admeasuring 34.79 Vigha at Rs.3,13,16,430/-. You are requested to explain how much of this consideration is paid by way of cheque. In response to the said notice, assessee stated that We have purchased such land at Jantri Price during the financial year 2006-07. There was no rate of Rs.900000/- per Vigha at which transaction for purchase of land was executed by other purchaser during the same tenure and denied that no cash payment have been made and same paper is part of assessment order. This paper is in Gujarati language and does not contain any signature and date and word cash is nowhere mentioned on this seized

document. In the decision of CBI vs. V.C. Shukla Hon'ble Supreme Court has held that it is not permissible to assess the undisclosed income in the absence of any other evidence on arbitrary basis and loose sheets cannot be considered as a conclusive evidence to make any addition towards undisclosed income and it is further held that "file containing loose sheets of papers are not books" and hence entries therein are not admissible u/s. 34 of the Evidence Act. In our considered opinion, such document has to be corroborated by any evidence sustainable in the eyes of law. As we can see in these documents, no signature and parties name have been mentioned, therefore, in our considered opinion, Id. CIT(A) has passed detailed and reasoned order. Therefore, we are not incline to interfere in the order passed by the Id. CIT(A).

#### Cases relied upon

Brief -Loose sheet of paper torn out of a diary could not be construed as books for the purpose of s. 68 of the Act. The addition could not be made simply on the basis of certain notings on loose sheets of a diary without any corroborative evidences in the form of extra cash jewellery or investment outside the books.

(i) S.P. Goyal Vs DCIT 77TT (2002) (Mum)(TM)

(ii) D.D. Malhan Vs DCIT 91 TTJ (2004) (Del)

(iii) Pioneer Publicity Corporation & Other Vs DCIT 67 TTJ 471(2000)(Del)

(iv) Gyankumar Agarwal (IND) Vs ACIT 146 TTJ 334 (2012) (Hyd)