

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

श्री डी. करुणाकरा राव, लेखा सदस्य, एवं श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष ।
BEFORE SHRI D. KARUNAKARA RAO, AM AND SHRI VIKAS AWASTHY, JM

आयकर अपील सं. / ITA No.1664/PUN/2016

निर्धारण वर्ष / Assessment Year : 2012-13

Ramdayal Hanumandas Soni,
Tilak Maidan, Yeola,
Nashik - 423401

PAN : AABFR7037B

.....अपीलार्थी / Appellant

बनाम / V/s.

Deputy Commissioner of Income Tax,
Malegaon Circle, Malegaon

.....प्रत्यर्थी / Respondent

Assessee by : Shri Pramod Shingte
Revenue by : Shri Sanjeev Ghei

सुनवाई की तारीख / Date of Hearing : 23-08-2018

घोषणा की तारीख / Date of Pronouncement : 31-08-2018

आदेश / ORDER

PER VIKAS AWASTHY, JM :

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-1, Nashik dated 19-05-2016 for the assessment year 2012-13.

2. The assessee in appeal has raised only one ground. The same reads as under :

"1. In view of the facts and circumstances of the case, evidences on record and the provisions of law, the learned CIT (Appeals) erred in

upholding the disallowance of cash purchases to the extent of 10% of total cash purchases made by appellant during the previous year relevant to A.Y. 2012-13. Therefore, it is prayed to delete the said disallowance, confirmed by the learned CIT (A).”

3. Shri Pramod Shingte appearing on behalf of the assessee submitted that the assessee is engaged in the business of trading in Paithani, Sarees, Kad & Silk etc. In scrutiny assessment proceedings, the Assessing Officer disallowed Rs.14,67,310/- on account of purchases made in cash by the assessee. The Assessing Officer estimated aforesaid disallowance @ 20% of cash purchases. The assessee carried the matter in appeal before the Commissioner of Income Tax (Appeals). The Commissioner of Income Tax (Appeals) restricted the addition to 10% of the cash purchases i.e. Rs.7,33,655/-. Now, the assessee is in second appeal before the Tribunal against the addition confirmed by the Commissioner of Income Tax (Appeals). The ld. AR submitted that in assessment year 2010-11 similar disallowance was made by the Assessing Officer in respect of cash purchases. The Assessing Officer disallowed 20% of the cash purchases. The Commissioner of Income Tax (Appeals) restricted the disallowance to 10% i.e. Rs.45,88,950/-. The Tribunal further reduced the addition by estimating disallowance at Rs.25,00,000/-. The ld. AR furnished the copy of Tribunal order in assessee's own case in ITA No. 645/PUN/2015 for assessment year 2010-11 decided on 08-09-2017.

4. On the other hand Shri Sanjeev Ghei representing the Department vehemently defended the findings of Commissioner of Income Tax (Appeals) and prayed for dismissing the appeal of assessee.

5. We have heard the submissions made by representatives of rival sides and have perused the orders of authorities below. We have also considered the order of Co-ordinate Bench in assessee's own case in ITA No. 645/PUN/2015 (supra). The only grievance of the assessee in appeal

is against confirming of disallowance Rs.7,33,655/- on account of cash purchases made by the assessee. We find that in assessment year 2010-11 ad hoc disallowance was made by the Assessing Officer in respect of cash purchases in similar manner. The Tribunal reduced the disallowance from Rs.45,88,950/- to Rs.25,00,000/-. The facts in the assessment year under appeal are identical. Taking into consideration entirety of facts, we are of considered view restricting disallowance to Rs.4,00,000/- in assessment year under appeal would be reasonable and would meet the ends of justice. Accordingly, the impugned order is modified and the ground raised by the assessee in appeal is partly allowed.

6. In the result, the appeal of assessee is partly allowed in the terms aforesaid.

Order pronounced on Friday, the 31st day of August, 2018.

Sd/-	Sd/-
(डी. करुणाकरा राव/D. Karunakara Rao)	(विकास अवस्थी / Vikas Awasthy)
लेखा सदस्य / ACCOUNTANT MEMBER	न्यायिक सदस्य / JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 31st August, 2018

RK

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(A)-1, Nashik
4. The Pr. Commissioner of Income Tax-1, Nashik
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति // True Copy//

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary,
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune