

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

**BEFORE SHRI R.S. SYAL, VICE PRESIDENT**

**आयकर अपील सं. / ITA Nos.3061 to 3065/PUN/2017**  
**निर्धारण वर्ष / Assessment Years : 1999-2000 to 2003-04**

Daulatrao Bapu Patil,  
Prit Pratik Ayodhya Nagari  
Dhebiwadi Road,  
Agashivnagar,  
Karad, Dist. Satara-415110  
PAN : ACBPP2726R

.....अपीलार्थी/Appellant

Vs.

ITO, Ward-4,  
Satara

.....प्रत्यर्थी /Respondent

Assessee by : Shri M.K. Kulkarni  
Revenue by : Shri Ajay Dhoke

सुनवाई की तारीख / <b>Date of Hearing : 08.11.2018</b>	घोषणा की तारीख / <b>Date of Pronouncement: 08.11.2018</b>
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**आदेश / ORDER**

**PER R.S.SYAL, VP :**

These five appeals by the assessee relate to the A.Yrs. 1999-2000 to 2003-04. Since common issues are raised in these appeals, I am, therefore, proceeding to dispose them off by this consolidated order for the sake of convenience.

2. I am taking up the factual scenario from the appeal for the A.Y. 2002-03, which was argued by the ld. AR on representative basis. Factual matrix relating to this appeal is that the assessee, a bank employee, filed return declaring total income of Rs.1,34,400/-. A report was received from ADIT (Investigation), Kolhapur, which transpired that the assessee made certain investments in agricultural land and Recurring Deposits. For the year under consideration, the assessee made investment in agricultural land amounting to Rs.1,90,000/- and in R.Ds at Rs.36,000/-. On being

called upon to furnish the source of such deposits, the assessee submitted that he received the above money from D.B. Patil (HUF) which, in turn, was utilised for purchasing agricultural land etc. The AO did not accept the explanation so rendered on the ground that D.B. Patil (HUF) had never filed any return of income and the concept of creation of D.B. Patil (HUF) emerged only after investigation was carried out by the ADIT (Investigation), Kolhapur. He, therefore, made an addition of Rs.2,26,000/- for the A.Y. 2002-03. The ld. CIT(A) did not concur with the submissions advanced on behalf of the assessee and sustained the addition.

3. Similar position prevails for the A.Y. 1999-2000 for which addition of Rs.1,10,500/- was made and sustained; Rs.59,000/- for the A.Y. 2000-01; Rs.3,39,561 for the A.Y. 2001-02; and Rs.1.00 lakh for the A.Y. 2003-04. The assessee is aggrieved by such additions.

4. I have heard both the sides and perused the relevant material on record. It is observed that the Ld. CIT(A) has proceeded on the premise as if the assessee is a co-operative society and drew inferences accordingly. As against this, the assessee is a limited company, not having any traits of a co-operative society. The assessee explained before the authorities below that he made investments in agricultural land and R.Ds etc., out of the amount received from D.B. Patil (HUF). The authorities did not accept the assessee's explanation simply for the reason that no returns were filed by such an HUF. The case of the assessee is that the HUF was holding certain land from which agricultural income was generated and such agricultural income was not chargeable to tax. The

authorities have brushed aside the explanation so given by the assessee without even first examining the existence or otherwise of some agricultural land in favour of the HUF and the resultant income which, as was claimed to have been used by the assessee used for making investments in agricultural land and R.Ds. If there exists some agricultural land pertaining to the HUF, then the explanation of the assessee explaining the source of investments made by him from the amount received from the HUF, cannot be ignored. Since these basic facts about the existence or otherwise of the agricultural land by the HUF and the earning the agricultural income with its quantum from such land have not been examined, I am of the opinion that the ends of justice would meet adequately if the impugned orders are set-aside and the matter is restored to the file of AO for examining the assessee's contention in terms set out above. I order accordingly.

5. No arguments were advanced against the initiation of re-assessment proceedings, which ground is, therefore, dismissed as 'Not argued'.

6. In the result, all the appeals are partly allowed for statistical purposes.

Order pronounced in the Open Court on 08<sup>th</sup> November, 2018.

Sd/-  
**(R.S.SYAL)**  
उपाध्यक्ष/ VICE PRESIDENT

पुणे Pune; दिनांक Dated : 08<sup>th</sup> November, 2018  
सतीश

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT (Appeals)-13, Pune
4. आयकर आयुक्त / The Pr. CIT-3, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "SMC" / DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

**/ True Copy //**

Senior Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune\*