

आयकर अपीलिय अधिकरण पुणे न्यायपीठ एक-सदस्य मामला पुणे में

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

सुश्री सुषमा चावला, न्यायिक सदस्य के समक्ष
BEFORE MS. SUSHMA CHOWLA, JM

आयकर अपील सं. / ITA No.2170/PUN/2017
निर्धारण वर्ष / Assessment Year : 2010-11

Baburao Kisanrao Jadhav,
Rukmini Niwas,
Kaheri Laman Tanda,
Latur – 413512.

PAN: ANGPJ8916R

.... अपीलार्थी/Appellant

Vs.

The Income Tax Officer,
Ward- 1, Latur.

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : None
प्रत्यर्थी की ओर से / Respondent by : Shri M. K. Verma

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| सुनवाई की तारीख / Date of Hearing : 27.12.2018 | घोषणा की तारीख / Date of Pronouncement: 28.12.2018 |
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आदेश / ORDER

PER SUSHMA CHOWLA, JM:

The appeal filed by the assessee is against the order of CIT(A)-2, Aurangabad dated 17.07.2017 relating to assessment year 2010-11 against order passed under section 143(3) read with section 147 of the Income-tax Act, 1961 (in short 'the Act').

2. Despite service of notice, none appeared on behalf of the assessee on 13.11.2018 and also on 27.12.2018. Because of smallness of the issue, the appeal is being decided after hearing the Id. Departmental Representative for the Revenue.

3. The only issue raised in the present appeal is against the addition of Rs.5,83,016/-.

4. Briefly, in the facts relating to the issue, the Assessing Officer, during the course of assessment proceedings, noted that the assessee had deposited cash of Rs.11,00,000/- and Rs.20,20,000/- in his saving bank account maintained with two different banks. The case of the assessee was selected for scrutiny and by recording reasons for reopening the assessment; the notice was issued under section 148 of the Act. The assessee was asked to explain the source of the said cash deposits in the bank account and also the source of investments in FDRs. The assessee explained that the source by way of cash flow statement with opening cash balance of Rs.9,83,016/-. When substantiating the opening cash balance, the assessee failed to appear before the Assessing Officer and filed an explanation vis-à-vis opening cash balance. The Assessing Officer noted that the assessee was having four saving bank accounts and there was no reason to hold huge cash in hand of Rs.9,83,016/-. Further, the assessee had never filed any return of income prior to assessment year 2010-11. Hence, the Assessing Officer made addition of Rs.9,83,016/- in the hands of the assessee.

5. Before the CIT(A), the assessee filed written submissions and explained that the source was out of agricultural income, rental income and interest income received from the past many years. The assessee claimed that where the Assessing Officer had failed to bring on record any evidence that the assessee could not have had such cash balance at the beginning of the year and since the assessee was a man of means owing large immovable property from which a sizable income was earned from year to year, there was no merit in making the said addition. He also explained that since he was an agriculturist and there was an understanding that the agriculturist did not have to pay any income tax, so no return of income were filed. The CIT(A) considering the explanation of the assessee but in absence of any evidence was of the view that at best, the assessee is entitled to get some relief on account of past savings and directed the Assessing Officer to restrict the addition to Rs.5,83,016/- and held that the assessee had savings worth Rs.4 lakhs from earlier years.

6. Aggrieved with the aforesaid order of the CIT(A), the assessee is in further appeal before the Tribunal.

7. No appeal has been filed by the Revenue against the order of the CIT(A). The issue which arises is whether the assessee could be given benefit of past savings to the extent of Rs.5,83,016/- and Rs.4 lakhs which was already allowed in the hands of the assessee. Admittedly, no evidence has been filed by the assessee as to how the said savings have been made by him and in absence of the same there is no merit in the plea of the assessee in this regard. Therefore, following the principles of natural justice, I restrict the addition to

Rs.3,83,016/- i.e. allowing further relief of Rs.2 lakhs. Thus, ground raised by the assessee on this issue is partly allowed.

8. In the result, the appeal of the assessee is partly allowed.

Order pronounced on this 28th day of December, 2018.

Sd/-
(SUSHMA CHOWLA)
न्यायिक सदस्य / **JUDICIAL MEMBER**

पुणे / Pune; दिनांक Dated : 28th December, 2018.

Sujeet

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-2, Aurangabad;
4. The Pr. CIT-2, Aurangabad;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे, एक-सदस्य
मामला / DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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