

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. / ITA No.1727/PUN/2017
निर्धारण वर्ष / Assessment Year : 2010-11

Shri Deelip Vishwanath Davle, Vs. ITO, Ward -2,
At Post Karajgaon, Latur
Taluka Ausa, Dist. Latur
PAN : AEIPD3519B

(Appellant)

(Respondent)

Appellant by Shri Piyush Bafna
Respondent by Shri Rajesh Gawli

Date of hearing 20-02-2019
Date of pronouncement 21-02-2019

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the assessee arises out of the order passed by the CIT(A)-2, Aurangabad on 06-04-2017 in relation to the assessment year 2010-11.

2. The assessee has filed additional revised grounds.
3. Ground No.2 is against sustenance of addition of Rs.7,39,250/- on account of cash deposits in bank.
4. Briefly stated, the facts of the case are that the AO got AIR information about the assessee having deposited cash of

more than Rs.10.00 lakh in his savings bank account. Notice u/s. 148 was issued. In the assessment proceedings, the assessee was called upon to furnish source of cash deposits of Rs.10.47 lakh made on different dates starting from 21-04-2009 to 09-03-2010. The assessee tendered some explanation, with which the Assessing Officer (AO) was not satisfied. Considering the agricultural income of the assessee as per certain estimations at Rs.1,56,431/-, the AO made addition of the remaining amount of Rs.8,90,569/-. (Rs.10.40 lakh, being, cash deposited in savings account as reduced by agricultural income as estimated by him at Rs.1,56,431/-). The ld. CIT(A) accepted the assessee's explanation about the agricultural income at Rs.1,67,000/- and Rs.1,40,750/- aggregating to Rs.3,07,750/- on the basis of photocopies of two bills given by M/s. Ramesh Narayan Dahe. Addition of Rs.7,39,250/- was sustained, against which the assessee has come up in appeal before the Tribunal.

5. I have heard both the sides and gone through the relevant material on record. It is noticed that the sole basis for the addition is cash deposits made by the assessee in his

savings bank account on different dates. Copy of bank account is available on page 33 onwards of the paper book, from which it can be seen that there are several cash deposits coupled with cash withdrawals. The AO has considered only cash deposits to the exclusion of cash withdrawals. The assessee has drawn a statement showing peak balance in support of cash deposits and cash withdrawals from/to the savings account, which shows the peak balance at Rs.2,39,700/-. It is axiomatic that if certain cash deposits are made and thereafter certain withdrawals are also made which are re-deposited in the bank account, the AO cannot make addition on account of unexplained explanation in respect of only deposits by ignoring the withdrawal side also which was re-deposited, unless it is shown that the cash withdrawals were used elsewhere. Adverting to the facts, it is seen that the peak balance is Rs.2,39,700/-. When I view the peak balance of Rs.2,39,700/- in the light of agricultural income accepted by the Id. CIT(A) at Rs.3,07,750/-, it becomes evident that the cash deposits in the bank account were made out of the agricultural income, which is much more than peak credit. I, therefore, order to delete the addition.

6. In the result, the appeal is allowed.

Order pronounced in the Open Court on 21st February,
2019

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

पुणे Pune; दिनांक Dated : 21st February, 2019
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)-2, Aurangabad
4. The Pr. CIT-2, Aurangabad
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

| | | Date | |
|-----|--|------------|-------|
| 1. | Draft dictated on | 20-02-2019 | Sr.PS |
| 2. | Draft placed before author | 21-02-2019 | Sr.PS |
| 3. | Draft proposed & placed before the second member | | JM |
| 4. | Draft discussed/approved by Second Member. | | JM |
| 5. | Approved Draft comes to the Sr.PS/PS | | Sr.PS |
| 6. | Kept for pronouncement on | | Sr.PS |
| 7. | Date of uploading order | | Sr.PS |
| 8. | File sent to the Bench Clerk | | Sr.PS |
| 9. | Date on which file goes to the Head Clerk | | |
| 10. | Date on which file goes to the A.R. | | |
| 11. | Date of dispatch of Order. | | |

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