

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

श्री आर. एस.स्यल, उपाध्यक्ष के समक्ष

आयकर अपील सं. / ITA Nos. 88 to 90/PUN/2019
निर्धारण वर्ष / Assessment Years : 2005-06, 2006-07 & 2007-08

Shri Pritesh Dinesh Adani, Vs. ITO, Ward-3,
19/21, Near Shri Hari Talkies, Ichalkaranji
Yashwant Colony,
Ichalkaranji – 416 115
PAN : AJEPA3681J

(Appellant)

(Respondent)

Appellant by Shri M.K. Kulkarni
Respondent by Shri Vishwas Munde

Date of hearing 24-07-2019
Date of pronouncement 25-07-2019

आदेश / ORDER

PER R.S.SYAL, VP :

These three appeals by the assessee relate to the assessment years 2005-06, 2006-07 & 2007-08.

2. There is a delay of 84 days in presenting each of the appeals before the Tribunal. The assessee has filed an affidavit giving reasons in support of the condonation of delay, with which I am satisfied. As such, the delay is condoned and the appeals are admitted for hearing on merits.

A.Y. 2005-06 :

3. Briefly stated, the facts of the case are that the assessee filed his return declaring total income of Rs.42,220/- which was processed u/s.143(1) of the Act. Thereafter, re-assessment proceedings were initiated. The Assessing Officer (AO) observed that certain amounts were deposited in the bank account. The assessee submitted that a sum of Rs.75,000/- was received from his mother, in support of which a confirmation letter was filed. As regards the other amount of Rs.32,800/-, the assessee submitted that he received this amount from his grandfather in three instalments, for which also some confirmation was filed. Not convinced, the AO made additions of Rs.75,000/- and Rs.32,800/-. The Id. CIT(A) deleted these two additions, but directed the AO to assess a sum of Rs.87,932/- as undisclosed peak capital in the hands of assessee.

4. Having heard both the sides and gone through the relevant material on record, it is seen that the assessee gave explanation about deposits of Rs.75,000/- and Rs.32,800/- received from his mother and grandfather respectively. Not only that, the assessee also furnished confirmation letters and the source of money

received by such persons which was given to the assessee. Considering the totality of the facts and circumstances in the instant case, I am of the considered opinion that the assessee successfully explained the source of deposits in the bank to this extent. This ground is, therefore, allowed.

5. No sustainable legal argument supported by any cogent evidence was advanced in support of initiation of re-assessment proceedings. Such ground, therefore, stands dismissed.

A.Yrs. 2006-07 & 2007-08 :

6. The facts for the A.Y. 2006-07 are that the AO initiated re-assessment proceedings in the same manner as for the preceding year. The assessee submitted the source of deposit by explaining that a sum of Rs.2,18,000/- was received from Shri P. D. Shah in FD account and no explanation was tendered for a further sum of Rs.45,293/-. In addition, the assessee explained the source of cash deposit of Rs.40,000/- towards gift received from grandfather. Not convinced, the AO made the additions of Rs.40,000/- and Rs.2,63,293/- (Rs.2,18,000 + Rs.45,293). The facts for the A.Y. 2007-08 are that the assessee explained the source of cash deposit in the bank towards Rs.28,000/- as having

been received from grandfather and furnished no explanation for cash deposit of Rs.7,783/-. The AO made these two additions.

7. The Id. CIT(A), for both the years under consideration, deleted the additions made by the AO. He, however, held that peak bank balance was to be added, which for the A.Y. 2006-07 was determined at Rs.3,38,994/- and for the A.Y. 2007-08 at Rs.3,17,621/-. The assessee is aggrieved by the confirmation of additions to this extent.

8. Having heard both the sides and gone through the relevant material on record, it is observed that the assessee gave explanation about the source of some cash deposits in the bank account and for others items of deposit, the assessee could not give any justification. The Id. AR contended that no proper opportunity was granted by the authorities below for explaining the source of such cash deposits for both the years. It was, therefore, prayed that one more opportunity be given. Without going into the merits and considering the totality of the facts and circumstances of the extant appeals, I am of the considered opinion that ends of justice would meet adequately if the impugned order on this score is set-aside and the matter is

remitted to the file of AO. I order accordingly and direct the AO to decide the issue afresh on merits of additions after allowing a reasonable opportunity of being heard to the assessee.

9. As regards the grounds against the initiation of re-assessment proceedings, the ld. AR did not advance any legally sustainable arguments backed by any cogent evidence. Such grounds are, therefore, dismissed.

10. In the result, the appeal for the A.Y. 2005-06 is partly allowed and for the later two years are partly allowed for statistical purposes.

Order pronounced in the Open Court on 25th July, 2019.

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

पुणे Pune; दिनांक Dated : 25th July, 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, Kolhapur
4. The Pr.CIT-2, Kolhapur
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	24-07-2019	Sr.PS
2.	Draft placed before author	24-07-2019	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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