

आयकर अपीलिय अधिकरण, पुणे न्यायपीठ “एक-सदस्य मामला” पुणे में
**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH “SMC”, PUNE**

श्री डी. करुणाकरा राव, लेखा सदस्य के समक्ष
BEFORE SHRI D. KARUNAKARA RAO, AM

आयकर अपील सं. / **ITA No.836/PUN/2019**
निर्धारण वर्ष / **Assessment Year : 2010-11**

Sunita Machhindra Sonawane,
MIG, D-90, N-2, Vinay Colony,
Thakare Nagar, CIDCO,
Aurangabad-431005.

PAN : BISPS4848H

.... अपीलार्थी/Appellant

Vs.

ITO, Ward-3(3),
Aurangabad.

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Shri Anand Partari
प्रत्यर्थी की ओर से / Respondent by : Shri Ranjit Singh

सुनवाई की तारीख / Date of Hearing : 23.09.2019	घोषणा की तारीख / Date of Pronouncement: 23.09.2019
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आदेश / ORDER

PER D. KARUNAKARA RAO, AM :

This appeal is filed by the assessee against the order of CIT(A)-2, Aurangabad dated 19.03.2019 for the Assessment Year 2010-11.

2. The grounds raised by the assessee are as under :-

“1. On the basis of facts and the circumstances of the case and in law, the honourable CIT(A) have erred to confirm the **addition made by the learned Assessing Officer of Rs.4,70,000/- u/s 68** of the Income Tax Act, 1961 based on AIR information. The CIT(A) has not appreciated the fact that the bank has accepted that there was technical **error in opening of Fixed Deposit Account** vide account no.60014607988 with Bank of Maharashtra. The CIT(A) has not appreciated that there is technical error from bank and presumed that how once reported under AIR is correct and true without appreciating the fact of the case. Hence, we plead this impugned addition by the honourable CIT(A)-2 are bad in law and should be deleted.

2. *The learned A.O. was not justified in initiating penalty proceedings under section 271(1)(c) of the Income Tax Act, 1961.*

3. *The appellant craves leave to add, amend, and alter any or withdraw any grounds of appeal at or before the time of Appeal hearing.”*

3. Briefly stated the relevant facts include that the assessee is a salaried employee of Videocon Industries Pvt. Ltd. The assessee filed the return of income declaring total income of Rs.1,50,192/-. At the end of the reassessment u/s 143(3) r.w.s. 147 of the Act, the Assessing Officer made addition of Rs.4,70,000/- as per the discussion given in para 6 of the assessment order. The said para 6 of the assessment order is extracted hereunder :-

“6. Information was also called for u/s 133(6) of the Act from the Bank of Maharashtra. On verification of the same the cash deposit of Rs.4,69,400/- dated 06/09/2009 is verified. However, in respect of cash deposit of Rs.4,70,000/- the assessee could not file any plausible explanation and documentary evidence. The assessee has failed to establish the source for deposit at a specific juncture of time which is nothing but the income from undisclosed sources in the hands of the assessee. In view of the above, it is concluded and established that, the assessee has failed to prove the sources of deposits of cash of Rs.4,70,000/- into the bank account on specific juncture of time, therefore, I hold that the amounts deposited at Rs.4,70,000/- is assessee’s income from undisclosed sources. Accordingly, an amount of Rs.4,70,000/- is added to the total income of the assessee. Since the assessee has concealed and furnished inaccurate particulars of income, therefore, penal proceedings under section 271(1)(c) of the Income-tax Act, 1961 are initiated separately.”

4. Before the first appellate authority, the assessee filed additional evidences and mentioned that the said addition is unsustainable as the said amount constitutes the balance lying in the accounted Fixed Deposit (FD) account created by the bank on their own at the time of the renewed of the old FD without involving the assessee. Saying that the amount of Rs.4,70,000/- mentioned in that account is nothing but transfer of the maturity amount of the assessee received from the existing FD account on its maturity. Ignoring the above facts, ld. CIT(A) confirmed the addition on

the erroneous belief that the said amount of Rs.4,70,000/- lying in the FD account created by the bank is nothing but mistakenly FD created by the bank. The contents of para 5 of the CIT(A)'s order speaks the errors so discussed above.

5. Before me, ld. Counsel for the assessee pointed out the list of mistakes relating to the opening of the FD account of Rs.4,70,000/- and submitted that the assessee has fixed deposit account and the savings bank account with Bank of Maharashtra. Specific to the FD account, which is subject matter of addition, ld. Counsel for the assessee submitted that the assessee's FD account was opened on 06.09.2008 for an amount of Rs.4,20,000/-. The maturity value of the said amount in FD account is Rs.4,63,601/- as on 05.09.2009. The said amount was renewed automatically on 06.09.2009 by the Banker. At this point of time, the assessee informed the bank to transfer the said amount to some new FDs with Cooperative Bank. However, there was some resistance from the bank side for transfer balance in the said FD to the assessee's choice Bank. It took around three months for the assessee to successfully transfer the said amount to the Cooperative Bank. Eventually, on 22.12.2009, the balance lying in the FD account amounting to Rs.4,69,400/- was successfully transferred from Bank of Maharashtra to the said Cooperative Bank. On the date of maturity of the FD on 06.09.2009, the bank automatically created an FD account, which is subject matter of addition. Ignoring the facts on the source of the money in the said account created automatically, the Assessing Officer/CIT(A) added the sum of Rs.4,70,000/- u/s 68 of the Act. Otherwise, it is the same amount and the sources stands explained.

6. On hearing both the sides and also perusing the bank statements, FD statements, the confirmation letter from the Bank of Maharashtra, statement of accounts with the Bank of Maharashtra as well as the Cooperative Bank, I am of the opinion, the explanation filed by the assessee in writing is fair and reasonable and no addition is called for in this regard. Accordingly, setting aside the order of the CIT(A), the addition made by the Assessing Officer is deleted. Thus, the grounds raised by the assessee are allowed.

7. In the result, the appeal of the assessee is allowed.

Order pronounced on this 23rd day of September, 2019.

Sd/-
(D. KARUNAKARA RAO)
लेखा सदस्य / ACCOUNTANT MEMBER

पुणे / Pune; दिनांक Dated : 23rd September, 2019.
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 CCIT, Nashik;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "एक-सदस्य मामला" / DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

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