

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

श्री डी. करुणाकरा राव, लेखा सदस्य एवं श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष
BEFORE SHRI D. KARUNAKARA RAO, AM AND SHRI VIKAS AWASTHY, JM

आयकर अपील सं. / ITA No.1314/PUN/2017

निर्धारण वर्ष / Assessment Year : 2012-13

Rajendra R. Malpani,
R. Z. Malpani,
Shantiniketan Colony,
Near Bus Depot, Shivaji Chowk,
Latur-413512.

PAN : ABPPM8079B

.....अपीलार्थी / Appellant

बनाम / V/s.

ACIT, Latur Circle,
Latur.

.....प्रत्यर्थी / Respondent

Assessee by : Shri Kishor Phadke
Revenue by : Shri N. Ashok Babu

सुनवाई की तारीख / Date of Hearing : 28.08.2019
घोषणा की तारीख / Date of Pronouncement : 04.09.2019

आदेश / ORDER

PER D. KARUNAKARA RAO, AM:

This appeal is filed by the assessee against the order of CIT(A)-2, Aurangabad dated 02.03.2017 for the Assessment Year 2012-13.

2. The solitary issue raised by the assessee in this appeal revolves around the disallowance of Rs.6,15,000/- u/s 69C of the Act.

3. Before us, at the outset, ld. Counsel for the assessee submitted that this is a case where the Assessing Officer made the said amount as an addition in the assessment on estimation basis on account of

marriage expenses. The assessee argued in the grounds that the said addition is unsustainable as the same constitutes a case of estimation, surmises and conjectures etc.

4. Coming to the facts, we find this is a case where the assessee filed the return of income declaring total income of Rs.25,40,440/- and the scrutiny into the accounts were conducted by the Assessing Officer and determined Rs.61,41,740/- as against the returned income of Rs.25,40,440/-. Otherwise, the addition on account of marriage expenditure at Rs.6,15,000/- is one of them as per the discussion given in para 6.2 of the assessment order. According to the said para, the assessee solemnized the daughter's marriage and reflected the expenditure on this account amounting to Rs.3,85,000/- in the capital account. Rejecting the entries in the capital account, the Assessing Officer estimated the same at Rs.10 lakh. After giving credit to the accounted expenditure, the Assessing Officer added the balance of Rs.6,15,000/-

5. Before the CIT(A), this issue was discussed in para 25 to 27 of the CIT(A)'s order being an operational para. It is made out in the said para that the marriage solemnized is that of the son and not of the daughter. It appears that the assessee does not have a daughter at all and to that extent the existent order of the Assessing Officer is erroneous. In para 27, the CIT(A) dismissed the assessee's objection and confirmed the addition made by the Assessing Officer.

6. Before us, ld. Counsel for the assessee submitted that this is a case of estimation of expenditure on account of son's marriage. The assessee reflected the sum of Rs.3,85,000/- as an expenditure debited in the capital account. The Assessing Officer rejected the above entries without rejecting the books of account and estimated the expenditure without verifying any evidence in his possession in support of his estimation of Rs.10 lakh. The ld. Counsel also opposed the order of the CIT(A) where the CIT(A) relied on certain decisions which are factually different. Referring to the cited Hon'ble Rajasthan High Court's judgement in the case of Rajendra Kumar Lahoty vs. DCIT, 266 ITR 621, ld. Counsel submitted that in that case there are material available on record to permit the Assessing Officer to visit the books of account and proceeded for estimation. Without prejudice, ld. Counsel submitted that estimation at the rate of 50% of Rs.10 lakh may be restricted.

7. On the other hand, ld. DR for the Revenue relied heavily on the orders of the Assessing Officer and the CIT(A).

8. We heard both the sides on this issue and perused the order of the Revenue authorities. We find relevant to extract the relevant lines from the orders of the Assessing Officer (para 6.2) and the CIT(A) (para 27), which are as under :-

*“(i) **From the Assessment Order :***

*“6.2 On verification of record and the information gathered, it is seen that during the accounting period the **marriage ceremony of daughter** of assessee took place. Considering the **debit of Rs.3,85,000/-** to Capital account, queries regarding details of expenses incurred on the event of marriage, assessee did not put*

*forth any detailed information asked for. The assessee was requested to produce details regarding payments with supporting evidences for expenses incurred on marriage-cads printing, marriage hall engaged, decoration, catering services, stay arrangements for guest, purchases of gold ornaments, diamonds and silver articles, cloth and gift articles etc. In turn, assessee has furnished merely details of head-wise expenses without any substantiation. In the light of these facts, I am left with no alternative, **but, to estimate very reasonable** the marriage expenses incurred to the tune of Rs.10,00,000/- in the light of standard of living of assessee and the precedence in the society regarding such occasions. The unexplained expenditure of [Rs.10,00,000 (-) Rs.3,85,000/-] = Rs.6,15,000/- within the provisions of Sec.69C of the Act simultaneously, initiating penal proceedings u/s 274 r.w.ss. 271(1)(c) of the Act.”*

(ii) **From the Appellate Order :**

“27. In view of the discussion above, in a case where the assessee refuses to part with information which is within his personal knowledge but which is essential for the purposes of computation of total income, it will be well within the rights of the assessing officer to make an estimation of the expenses incurred in marriage ceremony. In a case, where the assessee has thwarted the efforts of the assessing officer to make any meaningful investigation by not supplying any detail in respect of the marriage expenses, I hold that, looking into the fact of social and material affluence of the assessee, the estimate made by the assessing officer is just and proper. Consequently, Ground No.3 is dismissed.”

9. From the above, it is evident that the Assessing Officer and the CIT(A) do not have any iota of evidence to support the estimation regarding the quantum of Rs.10 lakh. Obviously, this is a case where the books of account/capital accounts were never rejected legally. Considering the above cited position, we find the ad-hoc estimation has to be discouraged in principle more so when there is no evidence to support the estimation as well as quantum of estimation. However, considering the concession given by the ld. AR for the assessee, we are of the opinion that, in place of the said sum of Rs.10 lakh, restricting the estimation to the sum of Rs.5 lakh should be reasonable on the fact of

this case. Therefore, differential sum of Rs.1.15 lakh (i.e. Rs.5 lakh minus Rs.3.85 lakh) should be added in the hands of the assessee. Accordingly, the Assessing Officer is directed. Thus, the relevant grounds raised by the assessee are partly allowed.

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

Order pronounced on 04th day of September, 2019.

Sd/-
(विकास अवस्थी /**VIKAS AWASTHY**)
न्यायिक सदस्य/**JUDICIAL MEMBER**

Sd/-
(डी. करुणाकरा राव/**D. KARUNAKARA RAO**)
लेखा सदस्य/**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 04th September, 2019.
Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order 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, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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