

आयकर अपीलिय अधिकरण] पुणे न्यायपीठ "एक सदस्य" पुणे में
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE

BEFORE SHRI ANIL CHATURVEDI,
ACCOUNTANT MEMBER

आयकर अपील स० / ITA No.2160/PUN/2016

निर्धारण वर्ष / Assessment Year : 2011-12

Bhimrao Arjunrao Bhakare,
C/o.Principal, Prabhat High School,
Nidhona, Taluka Phulambri,
Dist. Aurangabad.

..... अपीलार्थी /
Appellant

PAN : AHLPB8759P.

बनाम v/s

The Income Tax Officer,
Ward 2(3), Aurangabad.

..... प्रत्यर्थी /
Respondent

Assessee by : Shri Hari Krishan.

Revenue by : Shri Prashant Gandhale.

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| सुनवाई की तारीख / Date of Hearing : 18.09.2019 | घोषणा की तारीख / Date of Pronouncement: 18.10.2019 |
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आदेश / ORDER

PER ANIL CHATURVEDI, AM :

1. This appeal filed by assessee is emanating out of the order of Commissioner of Income Tax (Appeals) – 2, Aurangabad dated 04.07.2016 for A.Y. 2011-12.

2. The relevant facts as culled out from the material on record are as under :-

Assessee is an individual, who electronically filed his return of income for A.Y. 2011-12 on 11.11.2011 declaring a total income of Rs.1,91,320/-. Subsequently, on same day assessee filed revised return of income revising the total income at Rs.1,62,970/-. The case was selected for scrutiny and

thereafter, assessment was framed u/s 143(3) of the Act vide order dt.31.12.2013 and the total income was determined at Rs.18,46,091/-. Aggrieved by the order of AO, assessee carried the matter before Ld.CIT(A), who vide order dt.04.07.2016 (in appeal No. ABD/CIT(A)-2/383/2013-14) granted partial relief to the assessee. Aggrieved by the order of Ld.CIT(A), assessee preferred appeal before the Tribunal. The Tribunal vide order dt.17.05.2018 in ITA No.2160/PUN/2016 dismissed the appeal of the assessee. Thereafter, assessee filed Miscellaneous Application contending that there were certain errors in the order and therefore prayed for recalling of the order. Consequently, the Tribunal vide M.A. No.83/PUN/2018 order dt.12.03.2019 recalled the earlier order dated 17.05.2018. Thus, assessee is now in second appeal. Now the assessee has revised the grounds which read as under :

“The Ld. Commissioner of Income Tax (Appeals) has erred in confirming the addition to the extent of Rs.10,17,000/- on account of cash deposits made in the bank account of the assessee.”

3. During the course of assessment proceedings, AO noticed that assessee has deposited cash aggregating to Rs.11,50,000/- in his savings Bank account maintained with Deogiri Nagari Sahakari Bank Ltd., and Rs.14,17,000/- in the saving Bank account maintained with Central Bank of India. The assessee was asked to explain the source of deposits in those Banks. AO noted that with respect to the source of deposits of Rs.2,66,121/- with Deogiri Nagari Sahakari Bank, assessee could not explain with satisfaction the details and source of deposits. He therefore made the addition of the aforesaid amount as an unexplained money u/s 69C of the Act. With respect to cash deposits with Central Bank of India, AO noted that assessee could not explain the source of deposits of Rs.14,17,000/-. He accordingly made addition of Rs.14,17,000/- u/s 69A

of the Act. Aggrieved by the order of AO, assessee carried the matter before Ld.CIT(A), who after considering the remand report received from AO and assessee's reply to remand report held that assessee had explained the cash deposits with respect to Rs.4 lakhs. He accordingly confirmed the cash balance of Rs.10,17,000/-. Aggrieved by the order of Ld.CIT(A), assessee is now in appeal.

4. Before me, Ld.A.R. reiterated the submissions made before AO and Ld.CIT(A) and pointed to the observations of the remand report which are re-produced by the Ld.CIT(A) and from it he pointed out that Shri Arjun Bhimrao, father of the assessee had stated that he owned agricultural land and his agricultural income was about 4 to 5 lakhs. He further submitted that AO in the remand report has accepted the fact of income from agriculture of his father at Rs.4 lakhs per year and thus, total cash availability for two years at Rs.8 lakhs stands explained. In such a situation, he submitted that assessee's explanation with respect to the cash deposits aggregating to Rs.8 lakhs needs to be accepted. Ld. D.R. on the other hand, supported the order of AO and Ld.CIT(A).

5. I have heard the rival submissions and perused the material on record. The issue in the present ground is with respect to the addition made on account of unexplained cash deposits by the assessee in Central Bank of India. As against the total deposits of Rs.14,17,000/-, which was added as income by AO. Ld.CIT(A) after considering the remand report, granted relief to the extent of Rs.4 lakhs and confirmed the addition to the extent of Rs.10,17,000/-. The perusal of the remand report which is reproduced by the Ld.CIT(A) reveals that during the remand proceedings, Arjun Bhimrao, the father of the assessee stated that he owned agricultural land and had agricultural income of Rs.4 to 5 lakhs per year. After

considering the submission of assessee's father Arjun Bhimrao, AO has noted that the total cash availability for two years was about Rs.8 lakhs. In such a situation, I am of the view that to the extent of Rs.8 lakhs, the cash deposits in Central Bank of India by the assessee stands explained. I therefore, direct the deletion of addition to the extent of Rs. 8 lakhs. Before me for the balance addition of Rs.2,17,000/- since no explanation has been offered by Ld.A.R. nor has he pointed to any error / fallacy in the findings of lower authorities, I uphold the addition to the extent of Rs.2,17,000/-.

Thus, the ground of the assessee is partly allowed.

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

Order pronounced on 18th day of October, 2019.

Sd/-

(ANIL CHATURVEDI)

लेखा सदस्य / ACCOUNTANT MEMBER

पुणे Pune; दिनांक Dated : 18th October, 2019.

Yamini

आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :

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

आदेशानुसार/ BY ORDER

// True Copy //

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