

आयकर अपीलीय 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.1738/PUN/2018**
निर्धारण वर्ष / **Assessment Year : 2013-14**

Sudhakar Kashinathrao Biradar,
Sant Tukaram Nagar, Gawali Nagar,
Near Shri Krishna Mandir, Bhosari,
Pune-411039.

PAN : ANQPB7806G

.....अपीलार्थी / Appellant

बनाम / V/s.

ITO, Ward-8(1),
Pune.

.....प्रत्यर्थी / Respondent

Assessee by : Shri Pratik Navlakha
Revenue by : Shri S. P. Walimbe

सुनवाई की तारीख / Date of Hearing : 20.12.2019
घोषणा की तारीख / Date of Pronouncement : 15.01.2020

आदेश / ORDER

PER D. KARUNAKARA RAO, AM:

This appeal is filed by the assessee against the order of the CIT(A)-6, Pune dated 07.09.2018 for the assessment year 2013-14.

2. Before me, at the outset, ld. Counsel for the assessee submitted that this case needs to re-visit to the file of the Assessing Officer. Explaining the facts, ld. Counsel for the assessee submitted that this is case where the Assessing Officer made addition of Rs.25,50,000/- u/s 68 of the Act on account of unexplained cash deposits and finalized the assessment u/s 144 r.w.s. 147 of the Act. The Assessing Officer noted that the said cash deposits found in the bank account of the assessee maintained with M/s. Annasaheb Magar Co-op. Bank Ltd., Bhosari Branch, Pune. Further, the

Assessing Officer invoked the provisions of section 68 of the Act after granting reasonable opportunities to the assessee, which were not availed by the assessee in its true spirit. The CIT(A) confirmed the action of the Assessing Officer after granting number of opportunity. Before the CIT(A), the assessee tried to explain the sources of the said cash deposits, which were not dismissed by the CIT(A) holding that this is a case of providing the accommodation entries by depositing the said cash. The contents of para 4.2.2 of the CIT(A)'s order are relevant in this regard.

3. On hearing both the parties on this limited issue, I proceed to examine the request of the assessee for remanding the matter to the file of the Assessing Officer for fresh adjudication and if the same is appropriate or not. On perusal of para 4.2.2 of the CIT(A)'s order, I am of the opinion that the explanations given by the assessee before the CIT(A) were not made part of the discussion before the assessee's appeal is dismissed. I also considered the facts that there is a dispute about the existence of the business. The Revenue is of the opinion that no such business exists despite the fact that there is a claim of earning of receipts on the labour charges received to the tune of Rs.26,00,660/-. I also perused the contents of page 34 of the Paper Book relating to the labour expenses and other expenses of Rs.1,64,457/- which are debited to profit or loss account for the year under consideration. On perusal of the same, it is an inescapable inference that there exists a business and the assessee earned income of Rs.25,13,860/- from labour charges account and also incurred direct expenses of Rs.1,64,457/-. Considering the above undisputed fact, I am of

the opinion that as prayed by the Id. Counsel for the assessee, all the grounds raised by the assessee can be remanded to the file of the Assessing Officer for fresh adjudication in the interest of justice is allowable.

4. Accordingly, the Assessing Officer is directed to re-consider the above facts and discussion and pass a speaking order after granting reasonable opportunity of being heard to the assessee in accordance with set principles of natural justice. Thus, all the grounds raised by the assessee in this appeal are allowed for statistical purposes.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on this 15th day of January, 2020.

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

पुणे / Pune; दिनांक Dated : 15th January, 2020.
Sujeet

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-6, Pune;
4. The Pr. CIT-5, Pune;
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