

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.396/PUN/2019**
निर्धारण वर्ष / **Assessment Year : 2014-15**

Satish Krishnakant Mohole,
Prop. of M/s. Swati Enterprises,
33, Bramhachaitanya, Siddhivinayak
Housing Society, Indira Nagar,
Nashik-422009.

PAN : AAPPM8267Q

.....अपीलार्थी / Appellant

बनाम / V/s.

ACIT, Circle-1,
Nashik.

.....प्रत्यर्थी / Respondent

Assessee by : Shri Nikhil Pathak
Revenue by : Shri Sachin Y. Jawale

सुनवाई की तारीख / Date of Hearing : 20.12.2019
घोषणा की तारीख / Date of Pronouncement : 17.01.2020

आदेश / ORDER

PER D. KARUNAKARA RAO, AM:

This appeal is filed by the assessee against the order of the CIT(A)-1, Nashik dated 10.12.2018 for the assessment year 2014-15.

2. In this appeal, the assessee raised the following effective ground :-

“1) The learned CIT(A)-1, Nashik was not justified in confirming the addition of Rs.5,50,000/- made by the A.O.”

3. Briefly stated the relevant facts include that the assessee is an authorized dealer for sale of products of Siemens, Schneider Electric and others. The assessee filed the return of income declaring total income of Rs.42,43,840/-. In scrutiny assessment, the Assessing Officer determined

the assessed income of Rs.47,93,840/- and made addition of Rs.5,50,000/-.

4. The related facts of the issue include that the assessee was surveyed u/s 133A of the Act on 06.08.2013. The assessee runs a proprietorship concern in the name and style of M/s. Swati Enterprises. During the survey action, in view of certain entries on the loos sheets, the assessee offered a sum of Rs.5.5 lakh as additional income from the undisclosed sources for the assessment year 2014-15. However, the said amount was not offered while filing the return of income. The Assessing Officer issued a show-cause notice dated 19.12.2016 proposing to make the said amount as additional income of the assessee. In response, the assessee replied vide letter dated 21.12.2016 stating that the discrepancies found out by the Survey Team were accounted at the time of conclusion of the books of account of the assessee. However, rejecting the assessee's explanation, the Assessing Officer proceeded to make the said amount as addition as per discussion given in para 5.2 of the assessment order. For the sake of completeness, the said para 5.2 of the assessment order is extracted as follows :-

*"5.2 The submission of the assessee has been perused and duly considered but not acceptable. During survey action, assessee was specifically asked **as per loose paper found in survey premises** and has entry shows to him amount of Rs.1 lakh against pradip, Rs. 2.5 lakh against Rahul and Rs. 2 lakh against NTPC. In his answer assessee has admitted that these transactions have not recorded in the regular books of accounts and also I am not in a position to reconcile the same. He has also accepted and offer the above said amount of Rs.5.5 lakh as additional income from undisclosed sources for the current year. The assessee has not offered additional income from undisclosed sources in filed original return of income. I therefore, added to the total income of the assessee to the tune of Rs.5,50,000/- as undisclosed income. Penalty proceedings u/s 271(1)(c) initiated separately for concealment of income."*

5. During the first appellate proceedings, the assessee could not improve his case. Eventually, the CIT(A) dismissed the appeal of the assessee. Therefore, the assessee is in appeal before the Tribunal against the said addition of Rs.5.5 lakh.

6. Before me, at the outset, ld. Counsel for the assessee submitted that the statement given by the assessee, during the survey action, is not sacrosanct. Further, bringing my attention to the loose papers impounded during the survey action, ld. Counsel for the assessee submitted that the payments appearing in the name of Shri Pradip, Shri Rahul, NTPC etc were taken care of at the time of completion of books of account of the assessee. Referring to the GP rates for the year under consideration, ld. Counsel submitted that the same is comparable to that of the earlier assessment years 2011-12 to 2013-14. He mentioned that the net profit of the assessee at 3.3% shows highest of the assessment year under consideration. Therefore, with addition of Rs.5.5 lakh additionally, the GP rates shoot up abnormal figure. Therefore, the returns filed by the assessee should be accepted without making any addition. The addition made by the Assessing Officer is unsupported with any evidence.

7. On hearing both the sides on this limited issue, I am of the opinion that the CIT(A) confirmed the addition merely based on the statement given by the assessee during the survey action and not otherwise. It is not the case of the Revenue that the discrepancies noted in the loose sheets were not accounted while filing the return of income/disclosing the income of Rs.42,43,840/-. Considering the same, I am of the view that the order of

the CIT(A) needs to be reversed on this aspect. Thus, the ground raised by the assessee is allowed.

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

Order pronounced on this 17th day of January, 2020.

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

पुणे / Pune; दिनांक Dated : 17th 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)-1, Nashik;
4. The Pr. CIT-1, 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