

आयकर अपीलिय अधिकरण] पुणे न्यायपीठ “बी” पुणे में
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH “B”, PUNE

BEFORE SHRI GEORGE MATHAN, JM AND
SHRI ANIL CHATURVEDI, AM

आयकर अपील स० / ITA No.2415/PUN/2017

निर्धारण वर्ष / Assessment Year : 2009-10

The Income Tax Officer,
Ward-2, Ichalkaranji.

..... अपीलार्थी /
Appellant

बनाम v/s

Shri Dada Appa Patil HUF,
A/p Mangaon, Tal. Hatkanangale,
Dist. Kolhapur.

..... प्रत्यर्थी /
Respondent

PAN : AAIHD3611G.

Assessee by : Shri Pramod Shingte.

Revenue by : Shri S.P. Walimbe.

सुनवाई की तारीख / Date of Hearing : 21.02.2020	घोषणा की तारीख / Date of Pronouncement: 21.02.2020
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आदेश / ORDER

PER ANIL CHATURVEDI, AM :

1. This appeal filed by the Revenue is emanating out of the order of Commissioner of Income Tax (A) – 2, Kolhapur dated 02.08. for the assessment year 2009-10.

2. The grounds raised by the Revenue reads as under :

“1. Based on the facts and keeping in accordance with law, the CIT(A)-2 Kolhapur has erred in deleting the point related to undisclosed investment in land asset. The appellant has failed to offer the said undisclosed investment in land for taxation even after admitting the same in a statement recorded u/s 131 of the IT Act, 1961 before investigation wing.

2. On the facts and in law, the CIT(A)-2 Kolhapur erred in estimating agricultural income which should have been based on actual land under cultivation and substantive proof

obtained from Talathi Office. The appellant craves to leave, add/amend or alter any of the above grounds of appeal.

3. On the facts and in law, the CIT (A)-2, Kolhapur, erred in admitting the production of additional evidence in appeal, in the form of mere combined Cash flow statement, when, assessee has duly maintained Cash book, Receipt & Payment account and he duly been drawn balance sheet.

4. On the facts and in law, addition made on account of interest on accrued basis on FDR(s) ought to have been confirmed by the CIT (A)-2, Kolhapur.

5. The CIT (A)-2, Kolhapur erred in not providing opportunity to the A.O. vide admitting the evidence in the form of combined cash flow statement, which was not produced during the course of assessment proceedings in the light of provisions of rule 46A of Income Tax Rule, 1962.”

3. Before us, at the outset, Ld.A.R. submitted that the appeal of the Revenue is not maintainable on account of low tax effect in view of Circular No.17/2019 dated 08.08.2019 issued by CBDT and therefore, the appeal of the Revenue be dismissed. Ld.D.R. did not object to the aforesaid contention made by the Ld.A.R. but however supported the order of lower authorities.

4. We have heard the rival submissions and perused the material available on record. On perusing the grounds of appeal raised by the Revenue, we find that Revenue is aggrieved by the order of ld. CIT(A) in respect of the relief given by him. As per the recent announcement of Central Board of Direct Taxes (CBDT) dated 08.08.2019 (Circular No. 17 of 2019), no Department appeals are to be filed against relief given by ld. CIT(A) before the Income Tax Appellate Tribunal unless the tax effect, excluding interest, exceeds Rs.50 lakhs and it further states that the instructions will apply retrospectively to the pending appeals also. We find that in the present case the tax effect involved is less than Rs.50 lakhs. In the absence of any material placed on record by the Revenue to demonstrate that the issue in the present appeal is covered

by exceptions provided in para 10 of the aforesaid CBDT Circular, We are of the view that the monetary limit prescribed by the instructions of the aforesaid CBDT Circular would be applicable to the present appeal of the Department. We therefore hold the present appeal of Revenue to be not maintainable on account of low tax effect. However, in case there is any error in the computation of the tax effect involved or if for any reason, the aforesaid CBDT Circular is not applicable, it would be open to the Revenue to seek revival of the appeal. **Thus, the grounds of the Revenue are dismissed.**

5. **In the result, the appeal of Revenue is dismissed.**

Order pronounced on 21st day of February, 2020.

Sd/-

(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

(ANIL CHATURVEDI)

लेखा सदस्य / ACCOUNTANT MEMBER

पुणे Pune; दिनांक Dated : 21st February, 2020.

Yamini

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

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

आदेशानुसार/ BY ORDER

// True Copy //

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