

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

(Through Virtual Court)

BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI PARTHA SARATHI CHAUDHURY, JM

आयकर अपील सं. / ITA No.2781/PUN/2017
निर्धारण वर्ष / Assessment Year : 2012-13

Lalji Lakhmshi Dedhiya,
M/s. Parshwa Auto Centre,
Hal Budruk, Tal-Khalapur,
Khalapur-410203.

PAN : AAXPD0504H

.....अपीलार्थी / Appellant

बनाम / V/s.

ITO, Ward-4,
Panvle.

.....प्रत्यर्थी / Respondent

Assessee by : None
Revenue by : Shri Vitthal Bhosale

सुनवाई की तारीख / Date of Hearing : 24.03.2021
घोषणा की तारीख / Date of Pronouncement : 24.03.2021

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of the Learned Commissioner of Income Tax (Appeals)- 2, Aurangabad ('CIT(A)' for short) dated 06.09.2017 for the assessment year 2012-13.

2. The appellant raised the following grounds of appeal :-

"1) The CIT(A)-2 erred in sustaining the addition of RS 5,50,000/- unsecured loan/ deposit, made by the Assessing Officer u/s 68, in want of filing detail. Whereas all detail as required by law and desired by CIT-A were filed and accepted by him in his order.

2) CIT(A)-2 erred in order by mentioning that assessee failed to offer any logical/ credible explanation about nature of said transaction, in spite of true explanation offered by assessee including true nature and source of transaction and also source of source credit received by account paying cheques credited in bank.

3) *CIT -A, also erred in rejecting explanation offered by assessee, by simply stating that the credit worthiness of these persons to advance the loan has not been proved, including that of cash credit is confirmed in any manner.*

4) *The CIT(A)-2 erred in sustaining the addition of RS 50,000/- current liability for no bills have been submitted in support of the contention that these are the allowable expenses, made by the Assessing Officer, in want of filing detail.*

The appellant craves leave to add /alter any of the ground of appeal any time on or before the final hearing of appeal.”

3. Briefly, the facts of the case are that the appellant is an individual and is engaged in the business of a dealer of Hindustan Petroleum Corporation Ltd.. The return of income for the assessment year 2012-13 was filed on 24.09.2012 declaring total income of Rs.8,49,715/-. Against the said return of income, the assessment was completed by the Income Tax Officer, Ward-4, Panvel-Raigad (‘the Assessing Officer’) vide order dated 12.03.2015 passed u/s 144 of the Income Tax Act, 1961 (‘the Act’) at a total income of Rs.1,04,34,950/- after making several disallowances. The disallowances *inter-alia* includes the disallowance u/s 68 of the Act of Rs.10,53,832/- with which, we are concerned.

4. Being aggrieved by the above assessment order, an appeal was preferred before the ld. CIT(A), who vide his impugned order confirmed the addition on account of cash credit of Rs.5,50,000/- received from one Shri Bhavesh Shah and Smt. Prabha L. Dedhia and addition on account of provisions for audit expenses of Rs.50,000/-. However, the ld. CIT(A) granted relief in respect of other additions.

5. Being aggrieved by the part relief given by the ld. CIT(A) in his order, the appellant is before us in the present appeal.

6. When the matter was called on for hearing, none appeared on behalf of the appellant despite due service of notice through RPAD.

7. The ld. Sr. DR submitted that since the appellant had failed to discharge the onus cast upon him to prove the genuineness of the transactions of unsecured loans received from Shri Bhavesh Shah and Smt. Prabha L. Dedhia, the ld. CIT(A) was justified in sustaining the addition of Rs.5,50,000/- u/s 68 of the Act. Similarly, he also submitted that in the absence of any details such as the bills raised in support of the provisions for audit expenses, the ld. CIT(A) was justified in sustaining the addition of Rs.50,000/-.

8. We heard the ld. Sr. DR and perused the material on record. The grounds of appeal no.1 to 3 challenges the addition on account of cash credit received from Shri Bhavesh Shah and Smt. Prabha L. Dedhia, it appears that before the Assessing Officer the appellant had not filed any details of unsecured loans. However, before the ld. CIT(A), the appellant has filed full details as to the names and address etc of the persons from whom cash credits were received. However, in respect of one transaction of loan received from Shri Bhavesh Shah and Smt. Prabha L. Dedhia, it appears that the ld. CIT(A) confirmed the addition as the appellant had failed to enclose the confirmations from the creditor as well as from the bank, though it was stated that the same were enclosed. We are of the considered opinion that it can be instance of omission on account of inadvertence to enclose those confirmations and the ld. CIT(A) should have given opportunity to the appellant to file the same. In the circumstances, we remand the matter back to the file of the ld. CIT(A) to adjudicate the issue afresh after affording an opportunity to the appellant to file those details. Accordingly, grounds of appeal no.1 to 3 are partly allowed for statistical purposes.

9. Ground of appeal no.4 challenges the addition on account of provision for audit expenses of Rs.50,000/-. Normally, the provision for audit expenses

is made at the yearend, it is common knowledge that the bills for the same are submitted only upon completion of the audit etc. Therefore, there is no reason to disallow the same merely on the ground that the bills for the services of audit are not filed and it is settled principle of law that the expenses are allowable on accrual basis/on estimate basis. It is not the contention of the Revenue that it is not a provision for unascertained liability, therefore, we do not find any reason to disallow the same. Accordingly, this ground appeal no.4 stands allowed.

10. In the result, the appeal of the assessee stands partly allowed for statistical purposes.

Order pronounced on this 24th day of March, 2021.

Sd/-

(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(INTURI RAMA RAO)
लेखा सदस्य/ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 24th March, 2021.

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, Thane.
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.