

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
INDORE BENCH, INDORE**

*(Convened through Virtual Court)*

**BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMEBR  
& SHRI MANISH BORAD, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. Nos. 319 & 320/Ind/2020

(निर्धारण वर्ष / Assessment Year : 2008-09)

<b>Shri Subhash Mukati</b> Villag/Post-Lohari, Dewas, Madhya Pradesh - 455001	<b>बनाम/</b> Vs.	<b>Income Tax Officer</b> Ward-1, Dewas 49, Shivaji Nagar, Dewas, Madhya Pradesh - 455001
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : DAOPM4573D		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/Appellant by :	Shri S. S. Deshpande, A.R.
प्रत्यर्थी की ओर से / Respondent by :	Shri Harshit Bari, Sr. D.R.

सुनवाई की तारीख / Date of Hearing	28/09/2021
घोषणा की तारीख /Date of Pronouncement	20 /12/2021

**ORDER**

**PER MAHAVIR PRASAD, JM:**

Both appeals (quantum & Penalty) have been preferred by the assessee against the respective orders of the Commissioner of Income Tax (Appeals), Ujjain ('CIT(A)' in short) vide Appeal No. CIT(A), Ujjain/10678/2016-17 & CIT(A), Ujjain/11347/2016-17, dated 21.03.2016 arising out of assessment order dated 26.12.2016 & penalty order dated

26.09.2016 passed by the Assessing Officer (AO) under s. 144 & 271F of the Income Tax Act, 1961 (the Act), respectively; concerning AY 2008-09.

ITA No. 319/Ind/2020-A.Y. 2008-09 (quantum appeal)

2. The grounds of appeal raised by assessee read as under:

“1. *The Ld CIT(A) has erred in sustaining the addition of Rs.10,01,000/- on account of cash deposited in saving bank account.*

1.1 *It was proved before the Ld. CIT(A) that the amount deposited in bank out of sales proceeds of ancestral agricultural land in the name of sons at Rs.9,00,000/- and Rs.1,00,000/- out of sales proceeds of agricultural produce wheat & gram etc.*

1.2 *The addition confirmed by the Ld. CIT(A) may please be deleted.”*

3. The facts of the case is that the AO has made an addition of Rs.10,01,000/- on account of cash deposited in the saving account. The assessee has deposited such amount out of sources available with him. The addition has been made by the AO on the basis of cash deposited. The learned AO passed order under S.144 of the Act.

4. Thereafter, the assessee preferred first statutory appeal before the learned CIT(A) and filed additional evidence alongwith an application under Rule 46A of the I.T. Rules. The learned CIT(A) after considering the submission and additional evidence dismissed the appeal of the assessee.

5. Now, assessee has come before us.

6. The learned AR contended that whatever amount was deposited in the bank was out of sale of agricultural land by his son and same was done

by assessee's son. In support of his contention for cultivating land since long, copy of B-1 & P-II filed before the lower authorities which clearly shows that land is irrigated and minimum two crops of soyabean, wheat, gram, potato and garlic etc. were taken every year. Moreover, head of Gram Panchayat had also certified that assessee is living with his joint family and certified that family is cultivating the land. The assessee was having 28 Bighas of irrigated land. So far sale of agricultural land is concerned, in support of its contention, assessee filed a sale deed of land. Therefore, in our considered opinion, assessee was having proper source of deposits in the bank and assessee is an agriculturist and was not having proper account and moreover not familiar with the formalities of income tax law and also find the copy of sale deed of agricultural land, Form B(1) & P-II of agricultural land along with evidence of his son, computation of total income and certificate of Gram Panchayat etc. It proves the case of the assessee beyond any reasonable doubt. Thus, we delete the addition made by lower authorities.

7. In the result, appeal filed by the assessee is allowed.
8. Now, we take up penalty appeal in ITA No. 320/Ind/2020.
9. The grounds of appeal raised by assessee read hereunder:

“1. *The Ld CIT(A) has erred in confirming the penalty of Rs.5,000/- u/s 271F.*

1.1 *It was proved before the Ld. CIT(A) that there is no liability to file the income tax return as the assessee is purely an agriculturist.*

1.2 *The penalty confirmed by the Ld. CIT(A) may please be deleted.”*

10. So far ITA No.320/Ind/2020 is concerned that relating to penalty proceedings under S.271F of the Act. Since, we already have granted relief to the assessee in quantum proceedings and penalty proceedings are consequential to the quantum proceedings. So, we do not think deem and proper to adjudicate separately penalty appeal. Therefore, we allow the appeal of the assessee.

11. In the combined result, both appeals filed by the assessee are allowed.

**This Order pronounced in Open Court on 20 /12/2021**

Sd/-  
(MANISH BORAD)  
ACCOUNTANT MEMBER  
Ahmedabad: Dated 20 /12/2021

Sd/-  
(MAHAVIR PRASAD)  
JUDICIAL MEMBER

*S.K.SINHA*

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /  
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

Assisstant Registrar,  
I.T.A.T., Indore

- 1.Date of dictation on 13.12.2021
- 2.Date on which the typed draft is placed before the Dictating Member 13.12.2021
- 3.Date on which the approved draft comes to the Sr.P.S./P.S.
- 4.Date on which the fair order is placed before the Dictating Member for pronouncement
- 5.Date on which the fair order comes back to the Sr.P.S./P.S
- 6.Date on which the file goes to the Bench Clerk
- 7.Date on which the file goes to the Head Clerk
- 8.The date on which the file goes to the Asstt. Registrar for signature on the order
- 9.Date of Despatch of the Order