

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH, 'A' PUNE- VIRTUAL COURT

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.462/PUN/2020

निर्धारण वर्ष / Assessment Year : 2010-11

Dharamraj Baba Borade, 1609, Sangola Urban Co-op. Bank, Shri Sidh Hospital, Sangola – 413 307 PAN : ABKPB1216C	Vs.	Pr.CIT-6, Pune
Appellant		Respondent

Assessee by : Shri Pratik Sandbhor
Revenue by : Shri Mohit Jain

Date of hearing : 12-01-2022
Date of pronouncement : 12-01-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee is directed against the order dated 27-03-2020 passed by the Pr. CIT u/s.263 of the Income-tax Act, 1961 (hereinafter also called 'the Act') in relation to the Assessment Year 2010-11.

2. This appeal is time barred by 33 days. The assessee has filed a condonation petition giving reasons for the delay. The said reasons have been perused and found to be satisfactory. The delay is condoned and the appeal is admitted for hearing.

3. Briefly stated, the facts of the case are that the assessee is an individual working with Sangola Urban Cooperative Bank Ltd., Sangola. On the basis of some information about the assessee having deposited cash of Rs.26,76,785/- in his bank A/c. No.0020001010000540 maintained with Sangola Urban Co-op. Bank Ltd., the AO issued notice u/s.148 of the Act. A return was filed declaring total income at Rs.1,93,252/- with Agricultural income of Rs.4.63 lakh. The assessment was completed u/s.143(3) r.w.s.147 of the Act at total income of Rs.3,93,250/- and Agricultural income of Rs.2,70,000/-. While completing the assessment, the AO made an addition of Rs.2.00 lakh u/s.69 of the Act as 'Income from undisclosed sources'. The Id. Pr.CIT, on review of the assessment order and other records, observed that the assessee deposited cash of Rs.26.76 lakh in his Savings Bank Account maintained with Sangola Urban Co-op. Bank Ltd., in support of which he submitted the sources as his as well as of his wife's income. The Pr. CIT held that the assessment order was erroneous and prejudicial to the interest of Revenue inasmuch as the AO completed the assessment without carrying out proper inquiry/investigation and simply made an addition of Rs.2.00 lakh,

which was not logical. On being called upon to explain as to why the revision should not be carried out, the assessee submitted that the actual cash deposited in the bank account was only Rs.5.00 lakh and the ITS data erroneously showed cash deposits of Rs.26.76 lakh. The assessee further submitted that he tendered necessary explanation about the cash deposits and the AO, on not being satisfied with the source of cash deposit of Rs.2.00 lakh, made the addition for the said sum. Not convinced, the Id. Pr. CIT set-aside the assessment order and remitted the matter to the file of AO for deciding it afresh as per law. Aggrieved thereby, the assessee has come up in appeal before the Tribunal.

4. We have heard the rival submissions through Virtual Court and gone through the relevant material on record. It can be seen that the reassessment was initiated on account of cash deposited in the bank a/c amounting to Rs.26.76 lakh, being, the same subject matter on which the assessment order has been revised. During the course of the assessment proceedings, as is borne out from the assessment order dt. 28-11-2017, the assessee submitted written explanation about the source of cash deposited in the bank account. The AO was not convinced with the source of cash deposits to the

tune of Rs.2.00 lakh only, for which he made the addition. The assessee contended before the Id. Pr.CIT that the figure of cash deposited in the bank account amounting to Rs.26.76 lakh was erroneous and the correct cash deposit amount was only Rs.5.00 lakh. This contention has not been jettisoned by the Id. Pr. CIT. We have gone through the copy of bank account of the assessee in which the alleged cash was deposited. It can be seen from such bank account that there are only two cash deposits entries of Rs.3,10,000/- on 06-09-2009 and Rs.2,00,000/- on 14-10-2009. Other credits in the bank account are either transfers from Gold Loan Account or other transfers or receipt of some cheque or credit of salary or credit of advance against salary or maturity of FDRs etc. As regards the cash deposit of Rs.3,10,000/-, it is seen that during the current year the assessee withdrew cash of Rs.2,70,000/- from the same bank account prior to the date of re-deposit on 06-09-2009. The fact is that the assessee was having Agricultural income and his wife was also doing Xerox business. The availability of the remaining cash of Rs.40,000/- out of such sources cannot be ruled out. The other cash deposit of Rs.2.00 lakh made in the bank account has been added by the AO in the assessment order. This

shows that the AO was justified in canvassing the view that addition of Rs.2.00 lakh was called for in respect of cash deposits in the bank account. Since the assessment order itself is not erroneous, there can be no question of revising the said order u/s.263 of the Act, which, primarily, requires an assessment order not only to be erroneous but also prejudicial to the interest of Revenue. We, therefore, set-aside the impugned order.

5. In the result, the appeal is allowed.

Order pronounced in the Open Court on 12th January, 2022.

Sd/-
(R.S.SYAL)
VICE PRESIDENT

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

पुणे Pune; दिनांक Dated : 12th January, 2022
Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The Pr.CIT-6, Pune
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	12-01-2022	Sr.PS
2.	Draft placed before author	12-01-2022	Sr.PS
3.	Draft proposed & placed before the second member		AM
4.	Draft discussed/approved by Second Member.		AM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

*