

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "SMC", PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

ITA No.3072/PUN/2017

निर्धारण वर्ष / Assessment Year : 2009-10

Ganesh Anandrao Satale Hotel Swagat, Maruti Road, Sangli - 416416 PAN : AWFPS5624R	Vs.	ITO, Ward 1(3), Sangli
Appellant		Respondent

Assessee by

Shri Kishor Phadke

Revenue by

Shri Piyush Kumar Singh Yadav

Date of hearing

03-03-2022

Date of pronouncement

07-03-2022

आदेश / ORDER

**PER R.S.SYAL, VP :**

This appeal by the assessee is directed against the order dated 06-10-2017 passed by the CIT(A)-1, Kolhapur, in relation to the assessment year 2009-10.

2. The Id. AR raised two additional grounds challenging the initiation of re-assessment on the ground that the AO founded the initiation of reassessment on 'reason to suspect' and not 'reason to believe'; and secondly, the competent authority granted approval in a mechanical manner. During the course of hearing, both these

grounds were not pressed by Id. AR. These additional grounds are therefore, dismissed.

3. The only issue raised on merits is against the confirmation of addition u/s 68 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

4. Briefly stated, the facts of the case are that the assessee is engaged in a hotel business. It transpired during the course of the assessment proceedings for the A.Y. 2012-13 that the assessee had obtained certain unsecured loans in the previous year relevant to assessment year 2009-10 under consideration. Since the assessee could not substantiate the genuineness of the loan transactions, the AO initiated re-assessment proceedings for the relevant year and thus made the addition of Rs.28,82,900 u/s 68 of the Act. The Id. CIT(A) affirmed the addition. Aggrieved thereby, the assessee has come up in appeal before the Tribunal.

5. I have heard both the sides and gone through the relevant material on record. At the outset, the Id. Counsel submitted that the relevant documentary evidence substantiating the genuineness of the loan transactions, which are mostly from family members, could not be placed before the lower authorities for certain reasons outside the control of assessee. A request was made for admitting

the additional evidence now filed before the Tribunal in support of the genuineness of transactions. Since such additional evidence has not passed through the eyes of the AO, I am of the considered opinion that it would be in the fitness of things, if the impugned order is set aside and the matter is restored to the file of the AO. I order accordingly and direct the AO to re-examine the issue after allowing a reasonable opportunity of hearing to the assessee. Needless to say, the assessee will be at liberty to file any further evidence in support of its case, as may be considered expedient.

6. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the Open Court on 7<sup>th</sup> March, 2022.

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

पुणे Pune; दिनांक Dated : 7<sup>th</sup> March, 2022

GCVSR

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:**

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

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

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

		Date	
1.	Draft dictated on	03-03-2022	Sr.PS
2.	Draft placed before author	07-03-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
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.		

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