

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. / ITA No.2322/PUN/2017

निर्धारण वर्ष / Assessment Year : 2009-10

Thouwfeeq Fish Meal & Oil Company Pvt. Ltd., B-27 and B-28, MIDC, Mirjole, Ratnagiri PAN : AACCT1339A	Vs.	ACIT, Ratnagiri Circle, Ratnagiri
(Appellant)		(Respondent)

Appellant by

Shri M.K.Kulkarni

Respondent by

Shri Piyush Kumar Singh Yadav

Date of hearing

17-03-2022

Date of pronouncement

21-03-2022

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the assessee is directed against the order passed by the CIT(Appeals)-2, Kolhapur on 21-07-2017 in relation to the assessment year 2009-10.

2. The only issue raised in this appeal is against the confirmation of addition of Rs.37,75,268/- made by the Assessing Officer.
3. Briefly stated, the facts of the case are that the AO, on examination of assessee's ledger and cash book, observed that the assessee received payments in cash from the following parties :

Sl.	Name of the party	Amount
1	S.B. Zore	Rs.4,07,022/-
2	Shafiq Darve	Rs.1,00,000/-
3	Tajuddin Shamsuddin	Rs.2,50,000/-
4	Rajesh Naik	Rs.9,25,000/-
5	Rauf Hodykar	Rs.2,00,000/-
6	Nagraj Trasi	Rs.5,00,000/-
7	Nazir Sardar	Rs.5,00,000/-
8	Habib Bhai Hata	Rs.3,93,246/-
9	Harish Babu Saheb	Rs.5,00,000/-
	Total	Rs.37,75,268/-

4. The assessee was called upon to prove the genuineness of the above receipts. The assessee contended that the above persons were the debtors of the assessee company and payments were received from them during the year under consideration. However, the assessee could not produce the books of account of earlier year along with bills and vouchers to substantiate the genuineness of the debtors. The AO, therefore, made addition of Rs.37.75 lakh, which came to be affirmed in the first appeal.

5. Having heard both the sides and gone through the relevant material on record, it is seen that the case of the assessee is that a sum of Rs.37.75 lakh was received from opening balance of the debtors. The AO has made addition of the same by observing that the assessee could not produce the ledger accounts of such parties or balance sheet etc., of the earlier year to show that the amounts become debtors in the preceding year on account of sale of goods, payments from which were received during the year. If the assessee has really received

Rs.37.75 lakh from the debtors appearing in the balance sheet of last year, then obviously no such addition as unexplained cash credit can be made on the receipt of the amount. The fact that the assessee could not produce books for earlier years along with bills and vouchers shows that the contention of the assessee has remained unproved. Under the given circumstances, I set-aside the impugned order and remit the matter to the file of AO for examining this issue afresh. In case the assessee proves that it received cash Rs.37.75 lakh from the opening balance of the debtors then, no addition should be made. In the otherwise scenario, the AO will decide the issue as per law. Needless to say, the assessee will be allowed a reasonable opportunity of hearing.

6. The Id. Counsel for the assessee did not press any other grounds including ground nos. 2 and 3. These grounds are, therefore, stand dismissed.

7. In the result, the appeal is partly allowed for statistical purposes.

Order pronounced in the Open Court on 21st March, 2022.

Sd/-

(R.S.SYAL)

उपाध्यक्ष/ VICE PRESIDENT

पुणे Pune; दिनांक Dated : 21st March, 2022

Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-2, Kolhapur
4. The Pr.CIT-2, Kolhapur
विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "SMC"
5. / 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	17-03-2022	Sr.PS
2.	Draft placed before author	21-03-2022	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.		

*