

आयकर अपीलिय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
 AND
 SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER**

आयकर अपील सं. / ITA No.1520/PUN/2017
निर्धारण वर्ष / Assessment Year : 2011-12

Ashish HR Solutions Pvt. Ltd.,
 410/411, 4th Floor,
 Mayur Trade Center,
 Mumbai-Pune Highway,
 Chinchwad, Pune – 411019

PAN : AAICA3275C

.....अपीलार्थी /
 Appellant

बनाम / V/s.

The Income Tax Officer,
 Ward – 8(1), Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Kishor Phadke
 Revenue by : Shri M. Jasnani

सुनवाई की तारीख / Date of Hearing : 08-03-2022
 घोषणा की तारीख / Date of Pronouncement : 10-05-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 31-03-2017 passed by the Commissioner of Income Tax (Appeals)-9, Pune [‘CIT(A)'] for assessment year 2011-12.

2. The assessee raised 5 grounds of appeal challenging the action of CIT(A) in confirming the addition made by the AO amounting to Rs.29,44,080/- u/s. 68 of the Act.

3. Heard both the parties and perused the material available on record. We note from the assessment order that the AO found that the assessee had taken unsecured loan of Rs.34,91,562/- from the two directors each of Rs.4,00,000/- and Rs.30,91,562/-. The AO asked the assessee to produce confirmations of loan along with return of income, bank account statement of the said two directors to prove the identity, genuineness and credit worthiness of the said two persons. The assessee made submissions amongst which the AO found that Mrs. Vijaya Dadhade advanced loan of Rs.28,44,080/- in cash and Shri Avinash Dadhade advanced loan of Rs.1,00,000/- in cash. According to AO neither the cash book produced for verification nor the assessee made any other submission. Accordingly, he added amounts advanced in cash of Rs.29,44,080/- u/s. 68 of the Act by holding the assessee failed to explain satisfactorily. The CIT(A) also confirmed the view of AO vide Para No. 6 of the impugned order.

4. Before us, the ld. AR placed on record paper book containing pages 1 to 35. He drew our attention to Sr. No. 2, wherein, he filed pages 11 to 29 and submitted these are all additional evidences concerning the addition as confirmed by the CIT(A), if this Tribunal grants an opportunity to the assessee in remanding the issue to the file of AO for its fresh consideration, the assessee will submit all these evidences in support of its claim. On perusal of the said additional evidences, we note that the assessee filed details explaining source of cash and its utilization by Director, Bank Account statement of M/s. Ashish Enterprises, Breakup of payment of salary, Cash Book, Bank Account statement of the assessee and Return of Income of Mrs. Vijaya Dabade and Mr. Avinash Dabade. We note that the AO and CIT(A) held that there was no explanation offered by the assessee in respect of said cash loans. The AO also in assessment order clearly

mentioned that the assessee could not produce the bank statement, return of income and cash book. The ld. AR submits that these are the documents which were not in the possession of assessee and could not get the details in time in order to furnish the same before the AO and CIT(A). The ld. DR did not object in remanding the issue to the file of AO. We note that the provisions u/s. 68 of the Act required to prove the identity, genuineness and creditworthiness and admittedly, the assessee could not prove all these three ingredients before the AO. The assessee filed evidences in the form of paper book which were claimed to have been filed before the CIT(A) but however, the CIT(A) while seeking remand report confirmed the addition made by the AO. Therefore, in our opinion, all the additional evidences from pages 11 to 29 are necessary evidences in terms of addition made u/s. 68 of the Act. Therefore, we remand the issue to the file of AO for its fresh consideration. The assessee is liberty to file evidences, if any, in support of its claim. Thus, ground Nos. 1 to 5 raised by the assessee are allowed for statistical purpose.

5. In the result, the appeal of assessee is allowed for statistical purpose.

Order pronounced in the open court on 10th May, 2022.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 10th May, 2022.

रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-9, Pune
4. The Pr. CIT-5, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune