

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

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

ITA No. 999/PUN/2019

निर्धारण वर्ष / Assessment Year : 2016-17

Sumit Tayal, B-38, Ashwini Society, Pune Mumbai Road, Shivajinagar, Pune 411 005 Maharashtra PAN : AICPT6474B	Vs.	ITO, Ward-2(1), Pune
Appellant		Respondent

Assessee by Shri Krishna Gujarathi
Revenue by Shri M.G. Jasnani

Date of hearing 23-05-2022
Date of pronouncement 23-05-2022

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the assessee arises out of the order dated 03-06-2019 passed by the CIT(A)-3, Pune in relation to the assessment year 2016-17.

2. The only issue raised in this appeal is against the confirmation of addition of Rs.4,12,074/-.

3. Tersely stated, the facts of the case are that the assessee is an individual who filed his original return on 12-07-2016 declaring total income at Rs.9,66,360/-, which was revised on

31-07-2016 with total income at Rs.11,66,360/-. In such a revised return, the assessee claimed exempt income of his 10% share in profit of the partnership firm, namely, M/s. Nirman Reality at Rs.49,97,480/-. During the course of the assessment proceedings, it was observed that the assessee's 1/10th share in the partnership was only at Rs.45,85,406/-. The Assessing Officer (AO) held that the excess share of profit claimed by the assessee to the tune of Rs.4,12,074/- was in the nature of 'Income from other sources'. He, therefore, made the addition of such a sum, which came to be sustained in the first appeal.

4. We have heard both the sides and gone through the relevant material on record. Admittedly, the assessee filed revised return on 31-07-2016 showing share in partnership firm M/s. Nirman Reality at Rs.49,97,480/-. The accounts of the partnership firm were actually finalised later on 24-09-2016 and the assessee's share was determined at Rs.45,85,406/-. This change in the share in the profit of the partnership firm took place, *inter alia*, with the corresponding increase in the assessee's salary originally from the firm at Rs.3.00 lakh which was raised to Rs.5.00 lakh. In the original

return, salary income from the firm was shown at Rs.3.00 lakh with the profit from the firm at Rs.49.97 lakh. However, while filing the revised return, the assessee increased his taxable income by the additional salary of Rs.2.00 lakh but omitted to give effect to the figure of exempt share in the partnership firm which actually got reduced to Rs.45,85,406/- from the original share declared in the return at Rs.49,97,480/-. All the necessary relevant financial statements of the partnership firm have been placed on record which indicate the assessee's share in the profit at Rs.45,85,406/-. Merely because of a mistake in not lowering the share in profit of the firm from Rs.49,97,480/- to Rs.45,85,406/-, cannot lead to the treatment of the differential amount as 'Income from other sources' when all the necessary details and facts show that the assessee's share in the profit was at Rs.45,85,406/- at the time of finalisation of the accounts of the firm, which was originally at the time of filing of the assessee's return at Rs.49,97,480/-. Under these circumstances, we are satisfied that there is no reason to treat the difference in the share of profit of the firm as 'Income from other sources'. The addition is directed to be deleted.

5. In the result, the appeal is allowed.

Order pronounced in the Open Court on 23rd May, 2022.

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

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

पुणे Pune; दिनांक Dated : 23rd May, 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)-3, Pune
4. The Pr.CIT- 2, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "B" /
DR 'B', 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	23-05-2022	Sr.PS
2.	Draft placed before author	23-05-2022	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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