

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE
BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.682/PUN/2021

निर्धारण वर्ष / Assessment Year : 2017-18

Nitin Harakchand Shand, 32, New 1335, Old Raviwar Peth, Govind Halwai Chowk, Raviwar Peth, Pune 411 002 PAN : ADXPS3831K	Vs.	ITO, Ward-6(3), Pune
(Appellant)		(Respondent)

Appellant by Shri Prateek Jha
Respondent by Shri Arvind Desai
Date of hearing 26-05-2022
Date of pronouncement 30-05-2022

आदेश / ORDER

PER S.S. GODARA, JM :

This assessee's appeal for AY 2017-18 arises against the National Faceless Appeal Centre, Delhi's order dated 24-11-2021 passed in case No. CIT(A). Pune-4/10394/2019-20 involving proceedings under Section 143(3) of the Income Tax Act, 1961 in short the Act.

Heard both sides. Case file perused.

2. Coming to the assessee's sole substantive grievance that both the lower authorities have erred in law and on facts in treating his cash deposits of Rs.25.00 lakhs as unexplained, I find the CIT(A)'s detailed discussion affirming the Assessing Officer's action to this effect reads as under :

“8. Ground No.1 and 2 pertains to addition of Rs.25,00,000/-. The AO has discussed the addition in para 3 and 4 of the assessment order. During the course of assessment proceedings it came to the notice of AO that an amount of Rs.53,00,000/- has been deposited in the bank account. The AO made verification as per closing balance of cash in hand in ITR as on 31.03.2016 and 31.03.2017. And has allowed the cash deposit as per cash in hand shown in the ITR however, he was not satisfied with the explanation of the appellant, i.e. huge cash balance in the books of accounts but not supported and shown in the ITR of the relevant year. Thus, he has made addition of Rs.25,00,000 as unexplained money deposited in the bank u/s.69A of the IT Act. It is seen from records that, despite several opportunities given at the appellate stage, no submission or evidence was furnished by the appellant in support of the claim made by him in the grounds of appeal. Looking to the facts and circumstances & merit of the case as per material available on record, I am not inclined to interfere with the findings of the assessing officer and these grounds of appeal are decided in negative and against the appellant. Therefore, the addition of Rs.25,00,000/- made by the assessing officer is confirmed. In this respect, application of section 115BBE is mandatory and the same has rightly being applied by the AO. Thus, these grounds of appeal are dismissed.”

3. Learned counsel vehemently contended during the course of hearing that the assessee has duly proved the impugned cash deposits as pertaining to his two businesses, i.e. majuri and money lending activity wherein he has also filed detailed paper books and more particularly, that running to 51 pages containing bank statements, balance sheet and P&L accounts, letters requesting adjournment, medical report etc. The fact remains that all this evidence was never filed before the Assessing Officer during the course of assessment framed on 08-12-2019. This is coupled with the fact that I do not see any ground before the CIT(A) that the Assessing Officer had not afforded adequate opportunities of hearing resulting in violation

of principles of natural justice. Faced with this situation, I find no merit in assessee's arguments challenging correctness of the impugned addition in principle.

4. Next comes equally important aspect of quantification of the impugned addition. Learned departmental representative could hardly dispute the assessee's voluminous evidence indicating cash in hand of Rs.36,92,677.98 as per the balance sheet for the period from 01-04-2015 to 31-03-2016. The fact also remains that the assessee has not been able to reconcile all the deposit entries with cash in hand in issue. Faced with this situation and after taking into consideration the assessee's alleged regular business activities, I deem it appropriate that a lump sum addition of Rs.15.00 lakhs out of that in issue of Rs.25.00 lakhs would be just and proper with a rider that the same shall not be treated as a precedent. The assessee gets relief of Rs.10.00 lakh in other words. Necessary computation shall follow as per law.

5. This assessee's appeal is partly allowed in above terms.

Order pronounced in the Open Court on 30th May, 2022.

Sd/-

**(S.S.GODARA)
JUDICIAL MEMBER**

पुणे Pune; दिनांक Dated : 30th May, 2022
Satish/Doc

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The NFAC, Delhi
4. 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	26-05-2022	Sr.PS
2.	Draft placed before author	27-05-2022	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.		