

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

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

आयकर अपील सं. / ITA No.202/PUN/2019
निर्धारण वर्ष / Assessment Year : 2009-10

The Income Tax Officer,
Ward – 2(3), Aurangabad

.....अपीलार्थी / Appellant

बनाम / V/s.

Mr. Parvez Nazir Hussain Jafri,
H. No. 2-3-23, Ali Manzil,
Shah Bazar, Aurangabad – 431001

PAN : ACQPJ2534A

.....प्रत्यर्थी / Respondent

प्रत्याक्षेप सं. / CO No.22/PUN/2021
निर्धारण वर्ष / Assessment Year : 2009-10

Mr. Parvez Nazir Hussain Jafri,
H. No. 2-3-23, Ali Manzil,
Shah Bazar, Aurangabad – 431001

PAN : ACQPJ2534A

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward – 2(3), Aurangabad

.....प्रत्यर्थी / Respondent

Assessee by : Shri M.K. Kulkarni
Revenue by : Shri M.G. Jasnani

सुनवाई की तारीख / Date of Hearing : 09-06-2022
घोषणा की तारीख / Date of Pronouncement : 13-06-2022

आदेश / ORDER**PER S.S. VISWANETHRA RAVI, JM :**

This appeal by the Revenue against the order dated 15-11-2018 passed by the Commissioner of Income Tax (Appeals)-2, Aurangabad [‘CIT(A)’] for assessment year 2009-10. The assessee has filed Cross Objection in the appeal filed by the Revenue.

2. Upon hearing, we note that the issues raised in the appeal and cross objection are similar basing on the same identical facts. Therefore, with the consent of both the parties, we proceed to dispose off above said appeal and cross objection together and pass a consolidated order for the sake of convenience.

3. First, we shall take up the appeal by the Revenue in ITA No. 202/PUN/2019.

4. The Revenue raised as many as ten grounds of appeal questioning the action of CIT(A) in deleting the addition made by the AO on account of violating the provisions of section 40A(3) of the Act.

5. At the outset, we note that the CIT(A) by placing reliance in assessee’s own case for A.Y. 2008-09 passed by the ITAT vide its order dated 28-12-2012 deleted the addition made by the AO by holding when the genuineness and identity of the payee not in dispute no disallowance u/s. 40A(3) is maintainable.

6. We note that the AO in the year under consideration relating to A.Y. 2009-10 made additions of Rs.1,95,73,979/- and Rs.95,47,171/- u/s. 40A(3) of the Act. The ld. AR submits that the assessee is engaged in the business of supply of steel scrap to various re-rolling mills and conducting its business under the name and style of "M/s. Jafri Steel Traders". We note that the assessee challenged the above said additions made by the AO in the First Appellate proceedings. The CIT(A) considering the order of ITAT in assessee's own case for A.Y. 2008-09 deleted the entire addition. The CIT(A) reproduced the findings of ITAT in the impugned order at Page No. 22, wherein, it is brought to our notice that the Revenue accepted the said findings of ITAT, but, however, in the year under consideration the AO made additions for violating of provisions u/s. 40A(3) of the Act. The CIT(A) examined the issue in terms of findings of ITAT for A.Y. 2008-09 against which there is no order contrary to the findings of ITAT placed before us. Therefore, in view of the same, we find no infirmity in the order of CIT(A) and the grounds raised by the Revenue are dismissed.

7. In the result, the appeal of Revenue is dismissed.

CO No. 22/PUN/2021

8. Ld. AR submits that the assessee is not interested to prosecute the issue raised in cross objection and prayed to dismiss the same as not pressed. Accordingly, the same is dismissed as not pressed.

9. In the result, both the appeals by the Revenue as well as cross objection of the assessee are dismissed.

Order pronounced in the open court on 13th June, 2022.

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

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

पुणे / Pune; दिनांक / Dated : 13th June, 2022.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-2, Aurangabad
4. The Pr. CIT-2, Aurangabad
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