

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND  
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.602/PUN/2018

निर्धारण वर्ष / Assessment Year : 2014-15

M/s. George Restaurant, 2436, East Street, Camp, Pune – 411 001 PAN : AACFG3983G	Vs.	ITO, Ward-7(3), Pune
Appellant		Respondent

Assessee by Shri Pramod Shingte  
Revenue by Shri M.G. Jasnani

Date of hearing 16-06-2022  
Date of pronouncement 16-06-2022

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the assessee is directed against the order passed by the CIT(A)-5, Pune on 18-12-2017 in relation to the assessment year 2014-15.

2. The only issue raised in this appeal is against the confirmation of addition of Rs.12,19,736/-.

3. Briefly stated, the facts of the case are that the assessee was subjected to survey u/s.133A of the Income-tax Act, 1961

(hereinafter also called `the Act') on 13-09-2013. During the course of survey, the assessee surrendered gross additional income on account of sales from restaurant at Rs.7.00 crore with the bifurcation of Rs.3.50 crore for the assessment year 2013-14 and Rs.3.50 crore for the assessment year 2014-15 under consideration. Return of income for the year was filed declaring total income at Rs.2.49 crore. On being called upon to explain the reason for lowering the offering of the surrendered income from Rs.3.50 crore for the year under consideration to Rs.2.50 crore, the assessee submitted that Rs.3.50 crore for this year was gross figure, being, unrecorded sale receipts of the restaurant and expenditure of Rs.1.00 crore was incurred towards cost of food items and other related expenses against the unrecorded sale of Rs.3.50 crore. The Assessing Officer accepted the assessee's contention. Thereafter, he observed that there were certain loose papers marked as Sl. Nos. 1 to 40 in Bundle No.3. The assessee was called upon to explain the source of the expenses noted on these loose papers, totalling to Rs.12,19,763/-. The assessee promised to provide such source but eventually did not. The AO, on perusal of the details of the expenses, found that these were in

the nature of payment to labour and fabricators. He, therefore, made the addition of Rs.12,19,763/-. The ld. CIT(A) echoed the addition, against which the assessee has come up in appeal before the Tribunal.

4. Having heard both the sides and gone through the relevant material on record, it is found that the assessee did not offer any explanation in respect of expenditure of Rs.12,19,736/-. This indicates that such expenditure was not recorded in the books of account. Had the assessee given some plausible explanation about the source of the expenses, the matter would have ended there and then without calling for any addition. Now the question is about the taxability of such expenses which were not recorded anywhere. It is seen that the assessee offered a sum of Rs.2.50 crore as additional income towards unrecorded net sale receipts of the restaurant for the year under consideration. Once there is an unrecorded income and certain amount of unrecorded expenditure is also incurred which is less than the amount of such unrecorded income, making an addition on the account of unrecorded expenditure, notwithstanding the fact that the assessee had already offered undisclosed income, amounts to double taxation

to the extent of the amount of the unexplained expenditure. The situation would have been different if the addition of Rs.12.19 lakh had been made on account of some unrecorded income which would have warranted a separate addition. Here is a case in which the assessee earned some undisclosed income and spent some undisclosed expenditure and such expenditure being much less than the amount of unexplained income, there cannot be any question of making an addition towards such unexplained expenditure. We, therefore, order to delete the addition.

5. In the result, the appeal is allowed.

Order pronounced in the Open Court on 16<sup>th</sup> June, 2022.

Sd/-  
**(PARTHA SARATHI CHAUDHURY)**  
**JUDICIAL MEMBER**

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

पुणे Pune; दिनांक Dated : 16<sup>th</sup> June, 2022  
सतीश

**आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order is forwarded to:**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The CIT(A)-5, Pune
4. The Pr.CIT-4, Pune
5. DR, ITAT, 'B' Bench, 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	16-06-2022	Sr.PS
2.	Draft placed before author	16-06-2022	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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