

आयकर अपीलीय अधिकरण “एस एम सी” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, PUNE

BEFORE SHRI S.S.GODARA, JM

आयकर अपील सं. / ITA No.1366/PUN/2019

निर्धारण वर्ष / Assessment Year : 2008-09

Shri Prashant Prabhakar Gadkari,
Flat No.2, Shrirangmangal apartment,
Near Vidya Vikas Circle,
Gangapur Road,
Nashik – 422 009.

PAN : AKQPG5006N

.....अपीलार्थी / Appellant

बनाम / V/s.

ITO, Wd 1(2), Nashik

.....प्रत्यर्थी / Respondent

Assessee by : None
Revenue by : Shri Arvind Desai

सुनवाई की तारीख / Date of Hearing : 23.05.2022
घोषणा की तारीख / Date of Pronouncement : 26.05.2022

आदेश / ORDER

PER S. S. GODARA, JM :

1. This assessee's appeal for A.Y. 2008-09 is directed against the CIT(A)-1, Nashik's order dated 01/01/2019 passed in case No. NSK/CIT(A)-1/405/2016-17 involving proceeding u/s. 143(3) r.w.s 253 of the Income Tax Act, 1961 ; in short "the Act.

Case called twice. None appears at assessee's behest. It is accordingly proceeded ex-parte.

2. It emerges at the outset that assessee's instant appeal suffers from 160 days delay in filing stated to be attributable to various medical complications between December 2018 to August 2019 involving alleged expenditure of Rs. 40,00,000/- (approximate). The assessee has further filed on record various medical admission and investigation slips as well. All this material has gone un-rebutted from the Revenue side. I therefore quote Collector Land Acquisition, v/s Mst. Katiji & Ors. [167 ITR 471] that the cause of substantial justice must prevail over all technical aspects in case the assessee concerned reasonably explains reasons of the delay in issue. I thus hold that the impugned delay 160 days in filing is neither intentional nor deliberate but on account of reasons beyond the assessee's control. The same stands condoned.

3. Next comes the sole substantive issue on merits regarding correctness of sec. 68 unexplained cash deposit addition of Rs.1157000/- made in both the lower proceedings. There does not appear to be much dispute regarding the tribunals first round directions in ITA No.1243/pn/2011 to the Assessing officer to afford "one" more opportunity to the assessee in order to explain source thereof alongwith capacity of the parties concerned. And also that the assessee could not do the needful to this effect. I therefore find no reason to interfere to the impugned addition as it would tantamount to disturb the tribunal's earlier directions which have attained finality. The impugned addition stands upheld therefore.

4. These assessee's appeal is dismissed.

Order pronounced in the Open Court on this 26th day of May, 2022.

Sd/-

(S.S. GODARA)

न्यायिक सदस्य/JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 26th May, 2022.

Ashwini

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

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

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

S.No.	Details	Date	Initials
1	Draft dictated on	23.05.2022	
2	Draft placed before author	26.05.2022	
3	Draft proposed & placed before the Second Member		
4	Draft discussed/approved by Second Member		
5	Approved Draft comes to the Sr. PS/PS		
6	Kept for pronouncement on		
7	Date of uploading of Order		
8	File sent to Bench Clerk		
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R.		
11	Date of Dispatch of order		