

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

BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

ITA No.603/PUN/2019

निर्धारण वर्ष / Assessment Year : 2014-15

Shri Vijay Vasanttrao Mahadik 15, Acacia Garden Phase – II, Vasant Vaibhav, Magarpatta City, Hadapsar, Pune. PAN : AIIPM2613B	Vs.	Addl.CIT, Range 2, Pune
Appellant		Respondent

Assessee by Shri Nikhil Pathak
Revenue by Shri M.G. Jasnani

Date of hearing 05-07-2022
Date of pronouncement 14-07-2022

आदेश / ORDER

PER S.S. GODARA, JM :

This assessee's appeal for AY 2014-15 arises against the CIT(A)-7, Pune's order dated 15-01-2019 passed in case No. PN/CIT(A)-7/Cir-14/10909/2016-17 involving proceedings under Section 143(3) of the Income Tax Act, 1961, in short 'the Act'.

Heard both the parties. Case file perused.

2. Coming to the assessee's sole substantive grievance that both learned lower authorities have erred in law and on facts in

assessing bank deposits of Rs.13.73 lacs as unexplained, we note that the CIT(A)'s detailed discussion to this effect reads as under:

“4. Appellant is an Advocate rendering consultancy to various clients and also having income from real estate transaction. The assessee has e-filed return of income on 25.11.2014 declaring total income of Rs.2,15,94,190/-. As per the AIR information, an amount of Rs.28,00,000/- was deposited in cash in the Bank account No.6092500100477601 in Karnataka Bank. This bank account is standing in the name of the appellant's son Mr. Virendra Mahadik and the appellant is also a joint signatory to the account. The AO verified the books of Shri Virendra Mahadik and found that he had deposited only an amount of Rs. 14,27,000/- in the said bank account. The AO therefore, held that the balance amount of Rs.13,73,000/- is deposited by the assessee and has also asked the AR to show why it should not be treated as unexplained credit in the hands of the appellant. As there was no explanation from the assessee, the AO has added the same u/s. 68 of the Act.

5. All the grounds relate to the same issue and hence disposed together.

5.1 It is claimed that the bank account in Karnataka Bank belongs to his son and who is a regular tax payer and the said bank account is also reflected on the balance sheet and return of income for AY 2014-15. It is claimed that no addition of the cash deposits in the said account can be made in his hands. It was further submitted that the said account was open on 20.10.2010 when the son was a minor and he acted as a guardian for the son and the account. It was claimed that the son became major on 23.05.2011 and claimed that he has no relation to deposit and withdrawals after he became major. It is claimed that his PAN No. and the status of the guardian remained to be changed. Since his major son has source of income the same should have been assessed in his hands.

5.2 The submissions have been considered. It is a fact that the said account is being operated by both the son and the appellant. The AO has already verified the books of the son and found that out of the cash deposits of Rs. 28,00,000/- in the said account, the son could account only for Rs.14,27,000/-. The return filed by the son shows professional receipts of Rs.14,27,000/- only and after claiming the expenditure his income shown as Rs.11,22,380/-. It is only after such verification the AO has added the balance amount of cash deposit of

Rs.13,73,000/- in the appellant's hands. Since the account is held by both the parties, the appellant is also liable for all the deposits and withdrawal from the same. Therefore, I do not find any error in the action of the AO in treating it as relating to appellant. The appellant also did not adduce any evidence at the time of assessment when he was specifically called upon to. Under the given circumstances, I have no reason to delete the same.”

3. There is hardly any dispute between the parties that the bank account herein belongs to assessee's son Mr. Virendra Mahadik. It is further an undisputed fact that this bank account had seen cash deposits of Rs.28 lacs which have been assessed in assessee's hands.

Few clinching facts emerge from the instant case file.

4. The assessee appears to have opened the foregoing bank account in the name of his erstwhile minor son Mr. Virendra Mahadik long back. He had also furnished his PAN number at the time of his minor son's bank account opening. Mr. Jasnani vehemently argued that the learned lower authorities have rightly gone by assessee's PAN for taxing the impugned cash deposits in his hands. He could hardly have rebut the clinching fact that the assessee's son; who was a minor at the time of account opening, has become a major on 23.05.2011 who is assessable in his

independent capacity. We also wish to quote section 64(1A) of the Act wherein clubbing of income is provided in case of a “minor” child only which is not the case before us. Faced with the situation, we conclude that both the learned lower authorities have erred in law and on facts in adding the impugned cash deposits of Rs.13.73 lacs in assessee’s hands. The same stands deleted.

5. This assessee’s appeal is allowed in above terms.

Order pronounced in the Open Court on 14th July, 2022.

Sd/-
(DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

Sd/-
(S.S. GODARA)
JUDICIAL MEMBER

पुणे Pune; दिनांक Dated : 14th July, 2022

GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-7, Pune
4. The Pr.CIT-6, 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	05-07-2022	Sr.PS
2.	Draft placed before author	06-07-2022	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.		