

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

SHRI S.S. GODARA, JM AND DR. DIPAK P. RIPOTE, AM

ITA No. 68 to 70/PUN/2021

A.Y. 2007-08 to 2009-10

The Dy. CIT Cir. 5,

Appellant

Vs.

Shri Ameetsingh A. Rajpal
9 Eden Villa
479 Rasta Peth,
PUNE – 411 011.
PAN; AAQPR 3148 E

Respondent

Appellant by : Shri S.P. Walimbe

Respondent : Shri Suhas P. Bora

Date of Hearing : 30-06-2022

Date of Pronouncement : 15-07-2022

ORDER

PER S.S. GODARA, JM :

These Revenue's three appeals for A.Y. 2007-08 to 2009-10 arise against the CIT(A)-8 Pune's common order dated 28-08-2020 passed in case No.PN/CIT(A)-8/ITO Ward 7(2)/233, 234, 235, 323/2015-16/3 involving proceedings u/s 143(3) r.w.s. 147 of the Income-tax Act, 1961, in short "the Act", respectively.

Both parties heard. Case files perused.

2. It transpires at the very outset that the Revenue's identical twin substantive grounds in all the three cases seek to revise section 68 unexplained cash credit addition involving unsecured loans of Rs.2,39,70,864/- , 1,89,08,000/- and Rs. 4,84,66,000/- followed by the latter issue of assessee to cash deposits the tune of Rs. 89,97,340/-, Rs. 27,10,000 and Rs. 4,38,288/- ,assessment year-wise, respectively. The Assessing Officer had invoked section 68 to make both these additions thereby treating the same as unexplained cash credit deposits whereas the ICIT(A) had reversed the assessment finding to this effect.

3. The first and foremost vital question that arises for our adjudication is regarding maintainability of Revenue's instant three appeals. Case laws (1967) 65 CTR 261 (Bom) - Jivatlal Purtapshi Vs. CIT Bombay (2018) taxmann.com, Smt. B. Jayalakshmi Vs. The ACIT (2018) 96 taxmann.com 486 (Madras), Vs. Dy. CIT vs. D.M. Purmesh (2020) 426 ITR 169 (Karnataka) holds that the Revenue could hardly be taken as an aggrieved party against the CIT(A)'s order reversing assessment finding based on the Assessing Officer's report.

4. Mr. Walimbe vehemently argued that the Assessing Officer had rightly made both these additions as the assessee had failed to prove identity, genuineness and credit-worthiness of both unsecured loans received from his brother Shri Gurmeet Ajitsingh Rajpal and similar position continued for cash deposits made in bank accounts. We find that the Revenue's instant arguments hardly carry any merit. This is for the reason that the Assessing Officer appears to have submitted his detailed remand report dated 2-7-2020 before the CIT(A) that the assessee's brother Mr. Gurmeet Ajitsingh Rajpal had got recorded their statement way back on 25-3-2015 regarding the impugned unsecured loans, source(s) thereof which were found so factually correct. His findings dealing with this former issue is at pages 75 to 77 in paper book. This is followed by the Assessing Officer's detailed discussion at page 78 that the assessee's cash withdrawals in all these three years were much more than the cash deposits made in the bank account(s). Coupled with this, the assessee appears to have filed cash book as well during lower appellate proceedings whose entries have nowhere been doubted in the Revenue's pleadings. Faced with this situation, we hold that the Revenue's instant twin identical substantive grounds do not deserve to be admitted in light of Assessing Officer's favourable remand report(s) well as foregoing case law. The same stand rejected accordingly.

5. The Delay of 108 days identical in three cases stands condoned since falling in Covid 19 pandemic outbreak period.

6. These Revenue's three appeals are dismissed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on this 15th day of July 2022

Sd/-

sd/-

(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Pune; Dated, this 15th day of July 2022
Ankam

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The CIT (A)-8, Pune.
4. The Pr. CIT – 3, Pune
5. The D.R. ITAT A' Bench, Pune.
5. Guard File

BY ORDER,

Sr. Private Secretary
ITAT, Pune.

		Date	
1	Draft dictated on	30-06-2022	Sr.PS
2	Draft placed before author	07-07-2022	Sr.PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS		Sr.PS
6	Kept for pronouncement on	15-07-2022	Sr.PS
7	Date of uploading of order	15-07-2022	Sr.PS
8	File sent to Bench Clerk	18-07-2022	Sr.PS
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		