

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 Nos.2481 & 2482/PUN/2017

निर्धारण वर्ष / Assessment Years : 2009-10 & 2008-09

Shri Mahendra Hari Dalvi Flat No.203, Krishna Sagar Building, Chendre, Alibag, Dist. Raigad – 402201 PAN: ALJPD4913D	Vs.	ITO, Ward-3, Panvel
Appellant		Respondent

Assessee by Shri Prayag Jha
Revenue by Shri M.G. Jasanani

Date of hearing 12-07-2022
Date of pronouncement 21-07-2022

आदेश / ORDER

PER S.S. GODARA, JM :

These assessee's twin appeals for assessment years 2008-09 and 2009-10 arise against the CIT(A)-2, Aurangabad's separate orders; both dated 27-01-2017 passed in case Nos.THN/CIT(A)-2/017/2011-12 and THN/CIT(A)-2/016/2011-12 involving proceedings under Section 143(3) r.w.s. 147 and 147 of the Income Tax Act, 1961, in short 'the Act'; respectively.

Heard both the parties. Case files perused.

We proceed assessment year-wise for the sake of convenience and brevity.

2. Coming to the assessee's former appeal ITA No.2482/PUN/2017 for assessment year 2008-09, learned counsel pressed for his first and fourth substantive grounds only. His first and foremost grievance is that the CIT(A) has erred in law and on facts in upholding the Assessing Officer's action treating an amount of Rs.6 lacs involving Shri Ajit Tukaram Mhatre as unexplained thereby affirming the Assessing Officer's finding in his assessment order dated 06.05.2011. We note in this factual background that the CIT(A) had duly sought for the Assessing Officer's remand report which came to be filed on 30.05.2014. The Assessing Officer had seriously doubted the source of Shri Ajit Tukaram Mhatre therein as he was not found to be having such means to the extent of Rs.6 lacs in issue.

3. Learned counsel vehemently argued that the impugned sum in fact is in the nature of advances against sale of land received in

the regular course of business. We invited his attention to the impugned assessment year 2008-09 and almost 15 years time period elapsed since then to find out as to whether this sum of Rs.6 lacs has ever been recorded in any land transaction or not. No satisfactory reply has come from assessee side. Faced with this situation, we conclude that the learned lower authorities have rightly made the impugned addition in assessee's hands for want of satisfactory explanation. This first and foremost substantive ground is rejected.

4. Next comes the assessee's fourth substantive grievance reading as under:-

“4. Without prejudice to Ground Nos.1, 2 and 3, the Learned CIT(A) erred in not appreciating that the assessee had declared Additional Income of Rs.35,62,000/- for A Y 2010-11 in his statement recorded on 10.03.2010, during the course of Survey under section 133A on account of investments made by him and also the fact that he had disclosed this income in his return for A Y 2010-11”.

5. Learned counsel strongly argued that the impugned addition amount has already been assessed in assessment year 2010-11 assessment going by the assessee's corresponding search statement

and therefore, the same amounts to double addition. Learned counsel could hardly pinpoint this clinching fact in the assessee's search statement of having declared the impugned sum as belonging to assessment year 2008-09 only. Faced with this situation, we find no merit in the assessee's instant latter grievance. His instant former appeal ITA No.2482/PUN/2017 fails therefore.

6. Next assessee's latter appeal ITA No.2481/PUN/2017 for assessment year 2009-10. Delay of 183 days in filing thereof stated to be attributable to various communication gaps stand condoned so as to make way for the cause of substantial justice as held in *Collector, Land Acquisition vs. MST Katiji & Ors.* (1987) 167 ITR 471 (SC).

7. Learned counsel next stated very fairly that the assessee has raised similar substantive grounds in the instant latter case as decided against him in preceding assessment year 2008-09. We thus, follow judicial consistency to decline the same. This latter appeal ITA No.2481/PUN/2017 also follows the suit.

No other ground has been pressed before us.

8. These assessee's twin 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 21st July, 2022.

Sd/-
(DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

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

पुणे Pune; दिनांक Dated : 21st 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)-2, Aurangabad
4. The Pr.CIT-2, Thane
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	12-07-2022	Sr.PS
2.	Draft placed before author	14-07-2022	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.		