

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

BEFORE SHRI S. S. GODARA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.117/PUN/2019
निर्धारण वर्ष / Assessment Year: 2011-12

Nitinkumar Dhondiram Kasture, 11/247, Station Road, Ichalkaranji, Dist. Kolhapur-416115. PAN : ABWPK8353K	Vs.	Jt. CIT, Ichalkaranji Range, Ichalkaranji
Appellant		Respondent

Assessee by : Shri S. N. Puranik
Revenue by : Shri M. G. Jasnani

Date of hearing : 28.07.2022
Date of pronouncement : 28.07.2022

आदेश / ORDER

PER S. S. GODARA, JM:

This assessee's appeal for assessment year 2011-12 arises against the CIT(A)-2, Kolhapur's order dated 14.11.2018 passed in case no.ICH/CIT(A)-2/540/2013-14 involving proceedings u/s 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 pleadings in main/additional ground(s), learned counsel presses only the first and foremost issue of section 41(1) addition of the alleged cessation of the trading liability of Rs.3,08,692/- involving M/s. Datta Chemicals which

have been continuously carried forward since 2005. This long time span of six years made the Assessing Officer to invoke the deemed cessation by efflux of time u/s 41(1) which stands upheld in the CIT(A)'s order.

3. I have given my thoughtful consideration to vehement rival stands against and in support of the impugned cessation of liability addition and find no reason to sustain the same. Suffice to say, Mr. Jasnani could not pinpoint any specific material on assessee's books evidencing actual cessation or remission; as the case may be, so as to attract section 41(1) of the Act. I thus quote CIT vs. Bhogilal Ramjibhai Atara (2014) 43 taxmann.com 55 (Gujarat) and Vardhman Overseas (2012) 343 ITR 408 (Delhi) to delete the impugned addition for this precise reason alone.

No other ground has been pressed during the course of hearing.

4. This assessee's appeal is partly allowed in above terms.

Order pronounced on this 28th day of July, 2022.

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

पुणे / Pune; दिनांक / Dated : 28th July, 2022.

Sujeet (DOC)

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-2, Kolhapur.
4. The Pr. CIT-1, Kolhapur.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" 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.