

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. / ITA No.13/PUN/2021

निर्धारण वर्ष / Assessment Year : 2012-13

Kavita Suresh Pise, Flat No.2, Sumangal Apartments, Opp. Siddhivinayak Mandir, Mohan Nagar, Chinchwad, Pune 411 019, Maharashtra PAN : ARLPP9689C	<b>Vs.</b>	ITO, Ward – 8(3), Pune
(Appellant)		Respondent)

Appellant by None  
Respondent by Shri Arvind Desai  
Date of hearing 01-09-2022  
Date of pronouncement 01-09-2022

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the assessee is directed against the order passed by the CIT(A)-6, Pune on 3.8.2020 in relation to the assessment year 2012-13.

2. The first ground is against the confirmation of addition of Rs.17,50,000/- made by the Assessing Officer (AO) u/s.68 of the Act.

3. Tersely stated, the facts of the case are that the assessee is an individual engaged in the business of manufacturing of Pattern required in Foundry business. A return was filed

declaring total income of Rs.10,03,302/-. During the course of assessment proceedings, the AO observed that the assessee had shown certain loan creditors in her books of account. One of the creditors was Mr. Suresh Pise, husband of the assessee, with closing balance of Rs.34,31,000/-. The opening balance in this account was Rs.12,98,000/-. On being called upon to produce Sh. Suresh Pise, the assessee submitted certain sketchy details contending that he earned salary of Rs.3.00 lakh from another concern controlled by her. The AO, giving credit for such Rs.3.00 lakh, computed addition in respect of cash deposited amounting to Rs.9,25,000/-. The ld. CIT(A) sustained the addition, against which the assessee has approached the Tribunal.

4. I have heard the ld. DR and gone through the relevant material on record. There is no appearance from the side of assessee despite several notices. I am, therefore, proceeding to dispose of the appeal *ex parte qua* the assessee.

5. It is seen that the assessee has made out a case that a sum of Rs.12.25 lakh was received as loan from her husband. During the course of the first appellate proceedings, the assessee filed copy of ledger account of Sh. Suresh Pise in her books of

account. She also filed a copy of his bank account maintained with ICICI bank and SVC Bank along with PAN details and copy of return furnished by Sh. Suresh Pise for the assessment years 2011-12 and 2012-13. There is not much discussion in the impugned order about the fact that whether Sh. Suresh Pise had declared loan of Rs.12.25 lakh to the assessee in his return for the year under consideration. The assessee has also chosen not to be present despite several notices. In view of these facts, I am satisfied that the ends of justice would meet adequately if the impugned order on this issue is set-aside and the matter is restored to the file of the AO for deciding this issue afresh as per law after allowing reasonable opportunity of hearing to the assessee.

6. Second amount for which the AO made the addition is a sum of Rs.2.00 lakh received by the assessee from Ms. Sunanda Pise. The assessee produced confirmation letter and also bank statement of Ms. Sunanda Pise before the AO, who chose to treat the amount as unexplained and made the addition. During the first appellate proceedings, the assessee furnished a copy of ledger account of Ms. Sunanda Pise in her books of account along with her affidavit, her PAN card, her salary certificate and

also a copy of the bank account. The ld. CIT(A) remained unconvinced and sustained the addition.

7. Having regards to the facts of the instant case and the extent of amount involved, namely, Rs.2.00 lakh, I am satisfied that the assessee has successfully proved the creditworthiness of the creditor and genuineness of the transaction by furnishing necessary details as set out in the impugned order. This addition is directed to be deleted.

8. The third addition made by the AO u/s.68 is a sum of Rs.6,25,000/- received from Ms. Ratan Jalak. The assessee submitted affidavit, election card, 7/12 extract for confirmation by stating that the creditor is a farmer. Since Ms. Ratan Jalak was not produced for verification, the AO made the addition. During the first appellate proceedings, the assessee furnished various details including Form No.8 (holding of agricultural land), 7/12 extract and also copy of her account in the books of the assessee. The impugned order is again silent as regards the amount of agricultural income shown by Ms. Ratan Jalak as per 7/12 extract. Apart from narrating that such particulars were filed, necessary details contained in such documents have not been discussed. Considering the entirety of facts and

circumstances of the case, I am satisfied that it would be just and fair if the impugned order on this issue is also set-aside and the matter is remitted to the file of the AO. As such, I direct the AO to decide the issue afresh as per law.

9. The only other ground which survives in this appeal is against the confirmation of addition of Rs.1,97,626/-. The AO invoked section 41(1) and made the addition, which came to be sustained in the first appeal.

10. After considering the submissions of the ld. DR and going through the relevant material on record, it is seen that the assessee had shown a sum of Rs.1,97,626/- as payable to Padmavati Industries. The AO, without bringing anything on record, has simply treated this amount as not payable and hence chargeable to tax as cessation of 'trading liability'. In my considered opinion, there is no warrant for treating the amount payable to the creditor as remission or cessation of trading liability without bringing on record any evidence to the fact that the amount actually ceased to be payable. I, therefore, order to delete this addition.

11. In the result, the appeal is partly allowed.

Order pronounced in the Open Court on 01<sup>st</sup> September,  
2022.

**Sd/-**

**(R.S.SYAL)**

**उपाध्यक्ष/ VICE PRESIDENT**

पुणे Pune; दिनांक Dated : 01<sup>st</sup> September, 2022

*Satish*

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-6, Pune
4. The Pr.CIT-5, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "SMC" / DR  
'SMC', 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	01-09-2022	Sr.PS
2.	Draft placed before author	01-09-2022	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.		

\*