

**IN THE INCOME TAX APPELLATE TRIBUNAL PUNE BENCHES, PUNE
SINGLE MEMBER CASE**

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

ITA No. 1244/PUN/2018 : A.Y. 2010-11

Narayan B. Bhartiya,
Sankalp Seeds company Pvt. Ltd.
Bharatiya Niwas, Dr. R.P. Road,
Jalna

PAN: AAHLP 2882 Q

:Appellant

Vs.

The I.T.O. Ward 1, Jalna

Respondent

Appellant by : None

Respondent by : Shri Piyush Kumar Singh Yadav

Date of Hearing : 25-10-2022

Date of Pronouncement : 25-10-2022

ORDER

This appeal preferred by the assessee emanates from order of the Id. CIT(A)-1, Aurangabad dated 04-04-2018 for A.Y. 2010-11 as per the following grounds of appeal.

1. *CIT has erred in confirming the addition of Rs. 10,00,000/- as deemed dividend u/s 2(22)(e). Appellant prays to delete the same.*
2. *On filing the return in response to 148 and asking for the "reason to belief" recorded by the AO. Said reason having not provided by the AO, the order passed by AO is bad in law.*
Appellant prays to so hold and cancel the order.
3. *Appellant prays for cancellation of interest charged u/s 234A, 234B and 234C of the Act.*
4. *Without prejudice appellant prays to reduce the interest in terms of sec. 234A(3) and 234B(3) and hold that interest u/s 233C is not chargeable.*
5. *Appellant prays to add, alter, amend, modify and/or withdraw the ground/grounds as the occasion may demand."*

2. This is 2018 matter and the hearing of this case has been going on for quite a long period of time. I also find that this case before me has arisen as a re-called matter. The hearing notice has been served on the assessee as per

the registered address, still at the time of hearing none appeared for the assessee.

3. I have perused materials available on record, the orders of subordinate authorities and considered the submissions of the Id. D.R. That on perusal of the grounds of appeal specifically ground No. (2), it is stated that as regards the notice issued to the assessee u/s 148 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") by the A.O the assessee had asked for reasons for such reopening of the assessment and what exactly are the reasons which led to the belief of the A.O that income assessed to tax has escaped the assessment. Admittedly, such reasons for reopening were not furnished to the assessee. The Id. D.R also conceded these facts. The Id. D.R further stated that this ground has not been raised before the Id. CIT(A). I find that this is purely a legal issue which goes to the root of the matter involving principles of natural justice where the reasons recorded by the A.O for reopening the assessment has not been furnished to the assessee irrespective of the request made by the said assessee. In view thereof, in the interest of justice, I set aside the order of the Id. CIT(A) and remand the matter to the file of the A.O to re-adjudicate as per law complying with the principles of natural justice.

4. In the result, grounds of appeal are ` allowed for statistical purposes.

5. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on this 25th October 2022.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Pune; Dated, this 25th day of October 2022
Ankam

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The Pr. C.I.T. Aurangabad
4. The CIT(A)-12, Aurangabad
5. The D.R. SMC Bench I.T.A.T. Pune.
6. Guard File

BY ORDER,

Sr. Private Secretary
ITAT, Pune

/// TRUE COPY ///

		Date	
1	Draft dictated on	25-10-2022	Sr.PS
2	Draft placed before author	25-10-2022	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/PS		Sr.PS/PS
6	Kept for pronouncement on	25-10-2022	Sr.PS/PS
7	Date of uploading of order	25-10-2022	Sr.PS/PS
8	File sent to Bench Clerk	<u>25-10-2022</u>	Sr.PS/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		