

आयकर अपीलीय अधिकरण “बी” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, PUNE

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

आयकर अपील सं./ ITA No.820/PUN/2019
निर्धारण वर्ष / Assessment Year : 2014-15

Shankar G. Kunjir,
Navjeevan Medical & General Stores Kedgaon,
ST Boripardhi, Kedgaon,
Daund,
Pune -412 203

PAN : ACEPK2503Q

.....अपीलार्थी / Appellant

बनाम / V/s.

DCIT, Circle -14, Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Pramod Shingte
Revenue by : Shri M.G.Jasnani

सुनवाई की तारीख / Date of Hearing : 12.10.2022
घोषणा की तारीख / Date of Pronouncement : 18.10.2022

आदेश / ORDER

PER S. S. GODARA, JM :

1. This assessee's appeal for AY 2014-15 arises against the CIT(A)-7, Pune's order dated 01/03/2019 passed in case No. PN/CIT(A)-7/Cir-14/10743/2016-17 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 sole substantive grievance that both the lower authorities have erred in law and on facts in making section 68 unexplained action credited addition 25,00,000/- we note that the CIT(A)'s detailed discussion affirming the assessment findings dated 29.11.2016 to this effect reads as follows.

“5. Ground No.1: this ground relates to the addition of Rs. 25,00,000/-.

5.1 *The appellant reiterated the submissions made before the AO. It is the appellant that the amount of Rs. 25,00,000/- introduced as cash in proprietors capital account is out of the cash withdrawn during the AY 2012-13. It was claimed that an amount of Rs. 50,00,000/- was debited from the capital account during the AY 2012-13 for purchase of agricultural land. The appellant claimed that as the and was not purchased, part of this amount amounting to Rs.25,00,000/- was reintroduced as capital account in AY 2013-14 and another Rs. 25,00,000/- in the current AY.*

5.2 *The submissions have been considered. It is seen from the capital account of the assessee for the AY 2012-13, the appellant has withdrawn an amount of Rs. 52,16,000/- towards drawings and claimed that Rs. 50,00,000/- withdrawal was meant for the purchase of land which is the amount which has been subsequently deposited back in the capital in the AY 2013-14 & 2014-15. This leaves only an amount of Rs. 2,16,000/- towards personal and household expenses, Similarly, the drawings for the AY 2013-14 are only Rs. 2,04,000/- towards personal and household expenses. This clearly shows that the appellant has seen incurring only an amount of Rs. 15,000/- to Rs. 20,000/- per*

month towards household expenses. The appellant's son completed his BDS in the year 2012 and enrolled for MDS in 2013. The expenses relating to his son towards education are not accounted for in this period as the drawings are only meager. It was also seen that the appellant had actually purchased agricultural land measuring the 8H 6R for a consideration of Rs. 1,05,30,000/- (assessee has $\frac{1}{4}$ share which amounts to Rs. 26,32,500/-) vide purchase deed dated 11.07.2012 which was registered on 17.09.2012. Similarly the appellant purchased another property of which the purchase deed is dated 11.07.2012 and registered on 17.07.2012 of an area measuring 2H 42R for a consideration of Rs. 31,90,000/- (appellant's share is $\frac{1}{4}$ in the same which was to Rs. 7,97,500/-). However, in the capital account for AY 2013-14 the appellant has shown two purchases totaling to Rs. 34,30,000/- and Rs. 26,04,350/-. The above agricultural land purchases would have definitely involved some cash payments. The amount which was withdrawn has been apparently utilized for the above purpose. It is for this reason the appellant did not deposit the amount immediately back in the capital account. The amounts which are deposited back are clearly from the unaccounted sources, otherwise the appellant would have either deposited back immediately in AY 2012-13 itself or at least he would have deposited at one go in the AY 2013-14. The fact that he has retained part of the amount for more than two years to deposit back clearly shows that the withdrawn amount has been utilized for unaccounted payments and the subsequent deposit is only out of the unaccounted source. In this regard, the Supreme Court has held in the case of Sumati Dayal reported in 214 ITR 801 that the authorities should come to a conclusion after considering the surrounding circumstances and applying the test of human probabilities instead of dealing a matter in a superficial manner to accept a contention of the assessee. The circumstances in the present case clearly indicate that the amounts which have withdrawn are not the same that are reintroduced back. Therefore, the addition made by the AO is upheld.”

3. Learned counsel vehemently argued in light of the assessee's stand throughout as well as his detailed paperbook running into 120 pages that the impugned addition is not sustainable in law as well as on facts. He reiterated the assessee's pleadings that this sum of Rs.25,00,000/- forms part of Rs.25,00,000/- debited from the capital account during the AY 2012-13. All these assessee's arguments failed to invoke our concurrence. This is for reason we are in assessment year 2014-15 wherein he has not even submitted the corresponding cash flow statement pertaining FY 2011-12 to 2013-14; as the case may be. We further wish to re-iterate that CIT(A) has already analyzed assessee's socio economic status viz-a-viz of all his declared financial activities with house hold drawings which do not reconcile with the impugned sum of Rs.25,00,000/- . We thus express our complete agreement with the impugned addition made in both the lower proceedings. The assessee's sole substantive ground stands rejected accordingly.

4. This assessee's appeal is dismissed in above terms.

Order pronounced in the Open Court on this 18th day of October, 2022.

Sd/-

(DR.DIPAK P.RIPOTE)
लेखा सदस्य/ **ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 18th October, 2022.
Ashwini

Sd/-

(S.S. GODARA)
न्यायिक सदस्य/**JUDICIAL MEMBER**

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-7, Pune.
4. The Pr.CIT-6, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “बी” बेंच,
पुणे / DR, ITAT, “B” Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

S.No.	Details	Date	Initials
1	Draft dictated on	13.10.2022	
2	Draft placed before author	18.10.2022	
3	Draft proposed & placed before the Second Member		
4	Draft discussed/approved by Second Member		
5	Approved Draft comes to the Sr. PS/PS		
6	Kept for pronouncement on		
7	Date of uploading of Order		
8	File sent to Bench Clerk		
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		