

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

ITA No.768/PUN/2022

निर्धारण वर्ष / Assessment Year : 2017-18

Pratibha Jayadatta Kshirsagar Kshirsagar Banglow, Nagar Road Opp. Police Head Quarter, Beed – 431122, Maharashtra PAN: AJLPK8038L	Vs.	ACIT, Jalna Circle
Appellant		Respondent

Assessee by Smt. Deepa Khare
Revenue by Shri Kalpesh Kumar Rupavatiya

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

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the assessee is directed against the order passed by National Faceless Appeal Centre (NFAC), Delhi on 20.09.2022 in relation to assessment year 2017-18.

2. The only issue raised in this appeal through various grounds is against the confirmation of addition of Rs.5,75,000 towards cash deposit made during the demonetization period.

3. Briefly stated, the facts of the case are that the assessee derived income from house property and other sources. A return was filed declaring total income of Rs.16,27,760. The

case was selected for 'limited scrutiny' on account of '*Large value cash deposits during demonetization period*'. In the instant appeal, the issue is cash deposit of Rs.5,75,000, being, a part of total cash deposits of Rs.40 lacs. On being called upon to substantiate the source of such cash deposit, the assessee submitted that she purchased a car on 21.12.2015 for a sum of Rs.12,58,922, which was sold on 19.01.2016 to another person for a sum of Rs.12.50 lakhs, consisting of cash component of Rs.5.75 lakhs. On verification of details, the Assessing Officer (AO) observed that the car remained with the assessee for around six months and the registration certificate of the car indicated that the buyer had purchased this car by means of loan of Rs.6,75,000. The assessee submitted that in addition to Rs.6,75,000, cash of Rs.5,75,000 was also received towards part of sale consideration. Not convinced with the submissions of assessee, the AO added Rs.5,75,000. No relief was allowed in first appeal. Aggrieved thereby, the assessee has come up in appeal before the Tribunal.

4. I have heard both the sides and gone through the relevant material on record. The only issue is about the source of deposit of Rs.5,75,000 in cash in assessee's bank account. The assessee submitted that the source of such cash was sale of car taking place in the immediately preceding year on 19.01.2016 fetching sale consideration of Rs.12,50,000 comprising of Rs.6,75,000 by cheque and Rs.5,75,000 in cash. The car was stated to have been purchased on 21.12.2015, which is again in the immediately preceding assessment year. This shows that the car was purchased and sold by the assessee in the immediately preceding year, on which loss of Rs.8,922/- [Rs.12,58,922 (Purchase price) (-) Rs.12,50,000 (Sale price)] was incurred. On a pointed query to furnish the particulars of return for the immediately preceding assessment year for demonstrating if the transaction of sale of car for sum of Rs.12,50,000 was declared, the ld. AR expressed her inability due to non-availability of such information with her. The entire case of the assessee hinges on the source of cash deposit of Rs.5,75,000, for which the assessee submitted that it was a part of sale consideration of car effected in the immediately

preceding year, that was deposited in the bank account during the year under consideration. If the factum of the sale of car for Rs.12,50,000 is established from the return of the assessee or the accompanying particulars of the preceding year, then, of course, there can be no question of making or sustaining the addition because the source of cash deposit in the bank account gets explained. In case, the transaction of sale of car for Rs.12,50,000 is not reflected in the return for the immediately preceding year, then the source of cash deposit will remain unexplained. The assessee can also produce the confirmation from the buyer (and not some agent) to the effect of him having purchased the vehicle for a sum of Rs.12,50,000 and the making of cash payment of Rs.5,75,000 out of that. If, however, neither the assessee declared sale price of car at Rs.12,50,000 in the preceding year nor such a certificate is produced from the concerned buyer to the effect of having purchased the vehicle for Rs.12,50,000, the source of cash deposit in the bank account to the extent of Rs.5,75,000 will remain unexplained. I, therefore, set aside the impugned order and remit the matter to the file of the AO for re-determining

the issue in accordance with the above observations. Needless to say, the assessee will be allowed opportunity of hearing by the AO.

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

Order pronounced in the Open Court on 07th December, 2022.

Sd/-
(R.S.SYAL)
उपाध्यक्ष/ VICE PRESIDENT

पुणे Pune; दिनांक Dated : 07th December, 2022
GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned CIT(A), Pune
4. The concerned Pr.CIT, Pune
5. DR, ITAT, 'SMC' Bench, 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	07-12-2022	Sr.PS
2.	Draft placed before author	07-12-2022	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.		

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