

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

BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER AND  
G.D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA No.1892/PUN/2019  
Assessment Year : 2013-14

Income Tax Officer, Ward-1, Latur	Vs.	Mangesh Sidramappa Malang, C/o. Malang Construction, 11, LIC Colony, Ring Road, Latur – 413512 PAN : ANPPM0495D
Appellant		Respondent

Assessee by : None  
Revenue by : Shri Ramnath Murkunde

Date of hearing : 29-11-2022  
Date of pronouncement : 06-12-2022

**आदेश / ORDER**

PER S.S. GODARA, JM :

This Revenue's appeal for AY 2013-14 arises against the CIT(A)-I, Aurangabad's order dated 04.09.2019 passed in case No. ABD/CIT(A)-1/238/2016-17 dt.29.04.2016, involving proceedings under 143(3) of the Income Tax Act, 1961 in short the Act.

Case called twice. None appears at assessee's behest. The Revenue has placed on record the ITO, Ward-1, Nanded's letter dated 16-11-2022 along with the assessee's alleged receipt of

today's notice in person. The assessee-respondent is accordingly proceeded *ex parte*.

2. Now comes the Revenue's sole substantive grievance on merits that the CIT(A) has erred in law and on facts in restricting the Assessing Officer's action making section 68 unexplained cash credits addition of Rs.4,38,00,000/- in his assessment order dated 28-03-2016, to the extent of Rs.65.00 lakhs only in the lower appellate discussion.

3. Mr. Murkude vehemently argued during the course of hearing that the Assessing Officer had rightly made the impugned unexplained cash credits addition since the assessee could not prove identity, genuineness and creditworthiness of the alleged 33 sundry creditors during the course of assessment. We note in this factual background that the CIT(A) appears to have taken note of the assessee's additional evidences/submissions filed during the course of lower appellate proceedings which stood partly accepted in the Assessing Officer's remand report as well dated 02-08-2019 acknowledging therein that out of the foregoing 33 alleged sundry creditors, only 3 of them, i.e., Nagesh Vijaykumar Sontakke, Rama Reddy and Sagar Akash Patil involving Rs.5.00 lakhs, Rs.12.00

lakhs and Rs.8.00 lakhs; respectively, remained unexplained. The CIT(A) still went on to consider the household withdrawals, agricultural income(s) and other expenses of all the said parties to restrict the impugned section 68 addition from Rs.4,38,00,000/- to Rs.65.00 lakhs only. Faced with this situation, we quote *Smt. B. Jayalakshmi Vs. ACIT (2018) 96 taxmann.com 486 (Madras) & CIT Vs. D.M. Purnesh (2020) 426 ITR 169 (Karnataka)* that Revenue could hardly be termed as an aggrieved party once its Assessing Officer submits favourable remand report. We adopt the very reasoning herein as well to reject the Revenue's instant sole substantive grievance. Ordered accordingly.

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

Order pronounced in the Open Court on 06<sup>th</sup> December, 2022.

Sd/-  
**(G.D.PADMAHALI)**  
**ACCOUNTANT MEMBER**

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

पुणे Pune; दिनांक Dated : 06<sup>th</sup> December, 2022  
*Satish*

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The concerned CIT(A) concerned;
4. The CIT concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "A" /  
DR 'A', 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	29-11-2022	Sr.PS
2.	Draft placed before author	02-12-2022	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.		