

आयकर अपीलीय अधिकरण न्यायपीठ नागपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
NAGPUR BENCH : NAGPUR

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
SHRI DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपीलसं. / ITA No.389/NAG/2017
निर्धारणवर्ष / Assessment Year : 2013-14

Shri Prakash Thakurdasji Zanwar, Dhanraj Lane, Sabanpura, Amravati, Maharashtra – 444601. PAN: AAAPZ 4260 D	Vs.	The Income Tax Officer, Ward-5, Amravati.
Appellant/ Assessee		Respondent /Revenue

Assessee by	Shri R.B.Atal – AR
Revenue by	Shri G.J.Ninawe – DR
Date of hearing	15/11/2022
Date of pronouncement	09/12/2022

आदेश/ ORDER

Per S.S.Godara, JM:

This assessee's appeal for Assessment Year 2013-14 is directed against the Commissioner of Income Tax(Appeal)-1, Nagpur's dated 18.08.2017 in case no.CIT(A)-1/128/2016-17, in 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 ground challenging both the Lower Authorities action making section 69 r.w.s 115BBE addition and Rs.13 lakhs, we note that the CIT(A) detailed discussion affirming the Assessing Officer's finding to this effect reads as follows:

“4.2 Appellant’s submissions alongwith assessment order and records have been considered carefully. The appellant has been giving varying explanation to explain the source of cash deposit of Rs. 13,00,000/- found in his saving bank account at Dena Bank. In the initial stages of assessment proceedings, it has been stated as receipts from sister concern without giving any details and evidences, whatsoever, in its support. Later on, it is stated to be out of sale proceeds of agricultural land at Changpur which is not found correct for the reasons mentioned by the AO. In appeal proceedings, the appellant has again changed his version and stated it to be out of withdrawal from his proprietary business concern viz. M/s Shriram Agencies. The source of it has been explained through cash receipt on sale of 21 acres of agricultural land. It is to be noted that the appellant has not declared any LTCG on sale of this land in his return. In fact, AO has obtained copy of deeds from Sub-Registrar office u/s 133(6) of the Act. During the entire course of assessment proceedings, the appellant has tried to mislead the AO regarding earning of this LTCG, as is evident from assessment order. It is only when he has been cornered from all sides, the appellant has admitted of having earned these LTCG. Further, the appellant has also claimed Long Term Capital Loss of Rs.56,29,580/- in his return whereas he has already claimed this loss at Rs.41,59,369/- on same plot of land.

4.3 There is no denying the fact that the appellant has received cash amount of Rs.1,85,00,000/- on 02.02.2012 and Rs.1,45,00,000/- on 14.02.2012 as per sale deed of land dt.18.06.2012. In appeal, while enclosing balance sheet of M/s Shreeram Agencies, the appellant has shown cash-in-hand of Rs.1,79,55,758/- as on 31.03.2012. The appellant has also shown cash deposits of Rs.13,00,000/- on 05.06.2012 as per cash withdrawal of same amount made on 05.06.2012 from M/s Shreeram Agencies. It is to be noted that the appellant has received

total cash of Rs.2,30,00,000/- in month of February out of which only Rs.13,00,000/- been deposited in his bank account in the month of June 2012. Further, despite being specifically asked for by the undersigned, the appellant has not been able to satisfactorily explain its purpose and utilisation of this cash amount alongwith earlier year's books of account of M/s Shreeram Agencies justifying opening cash balance of Rs.1,79,55,753/- when net profit of Rs.96,500/- only been shown on total annual turnover of Rs. 12,05,600/- and there being no opening as well as closing stock of any of the items traded by him. Thus, this explanation of the appellant is also found to be merely an afterthought without any supporting evidence and thus not found acceptable.

4.3.1 Keeping in view facts of the case, conduct of the appellant and his varying submissions, AO is found justified in treating these cash deposits as unexplained. Accordingly, addition of Rs.13,00,000/- is, hereby, confirmed.”

3. Suffice to say, it is noted by the CIT(A) himself that the assessee had in fact received total cash of Rs.2,30,00,000/- in the month of February 2012 out of which only Rs.13 lakhs (forming subject matter of addition before us) has been found to have been deposited as on 05.06.2012. We make it clear that this is not the Revenue's case at all that the assessee's cash flow statement from the month of February 2012 onwards has in any way diverted the foregoing cash receipts in entirety for some other purposes. We thus hold that the assessee's cash in hand of Rs.2.3 crores very well forms source of these cash deposits of Rs.13 laksh. The impugned addition stands deleted therefore.

4. This assessee's appeal is allowed.

Order pronounced in the open court on 9th December, 2022.

Sd/-
(DR.DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

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

पुणे / Pune; दिनांक / Dated : 9th Dec, 2022/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, नागपुर बेंच,
नागपुर / DR, ITAT, Bench, Nagpur.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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