

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR – VIRTUAL COURT

BEFORE SHRI S. S. GODARA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.74/NAG/2022
निर्धारण वर्ष / Assessment Year: 2014-15

Yogeshprasad A. Jaiswal, 11, Siddhnath Complex, CIDCO, N-6, Aurangabad- 431003. PAN : ANTPJ3006B	Vs.	ITO, Ward-2, Amravati.
Appellant		Respondent

Assessee by : Shri Shubham Rathi
Revenue by : Shri G. J. Ninawe
Date of hearing : 02.11.2022
Date of pronouncement : 27.12.2022

आदेश / ORDER

PER S. S. GODARA, JM:

This assessee's appeal for assessment year 2014-15 arises against the National Faceless Appeal Centre "NFAC", Delhi's order dated 31.03.2022 passed in case no.ITBA/NFAC/S/250/2021-22/1042276582(1), 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 first and foremost substantive ground challenging correctness of both the lower authorities' action treating his cash deposits of Rs.14,51,150/- as unexplained, it emerges at the outset with the able assistance of learned counsel(s) that his stands all along had attributed the same to cash loans

obtained from 8 family members/relatives, namely, S/Shri Sawan Gokulprasad Jaiswal, Akash Nandlal Jaiswal, Alkesh Ambikaprasad Jaiswal, Ashok Jaglal Jaiswal, Ghanshyam Madanlal Jaiswal, Madanlal Jaglal Jaiswal, Pankaj Ashoklal Jaiswal and Ambikaprasad Jaiswal, involving varying sums. The Revenue's vehement argument during the course of hearing is that the assessee could not prove genuineness/creditworthiness of the said varying cash loans along with the source of all his family members.

3. I have given my thoughtful consideration to vehement rival stands and find no reason to express my agreement with the either parties' contentions in entirety. This is for the reason that neither the assessee has been able to prove the impugned cash loans from his family members by filing all the relevant supportive details nor the department could dispute that even possibility of past savings cash in hand such small amounts from family members could not be ruled out *per se*. Faced with this situation, this tribunal deems it appropriate to restrict the impugned addition of Rs.14,51,150/- to the extent of Rs.6,00,000/- only with the rider that the same shall not be treated as a precedent. Necessary computation shall follow as per law.

4. Next comes the latter addition of Rs.5,60,000/-. There is hardly any dispute that both the learned lower authorities have made the impugned addition on account of violation of section 269SS and

269ST i.e. availing and repaying the cash loans only. Learned departmental representative could not dispute that such adjacent attracts section 271D and section 271E penalties than any addition under the provisions of the Act. I therefore delete the impugned addition of Rs.5,60,000/- for this precise reason alone. Ordered accordingly.

5. This assessee's appeal is partly allowed in above terms.

Order pronounced on this 27th day of December, 2022.

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

पुणे / Pune; दिनांक / Dated : 27th December, 2022.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-NFAC, Delhi.
4. The Pr. CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, नागपुर /
DR, ITAT, Nagpur.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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