

॥ आयकर अपीलीय न्यायाधिकरण, पुणे "ए" न्यायपीठ, पुणे में ॥
IN THE INCOME TAX APPELLATE TRIBUNAL, PUNE "A" BENCH, PUNE
BEFORE HON'BLE SHRI S. S. GODARA, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.503/PUN/2022

निर्धारण वर्ष / Assessment Year : 2018-2019

Kiran Rupchand Oswal,

Store No.18/19 8, M. G. Road,

Pune - 411 001

PAN : AADPO3423A

..... अपीलार्थी / Appellant

बनाम / V/s.

Income Tax Officer,

National E-Assessment Centre

..... प्रत्यर्थी / Respondent

द्वारा / Appearances

Assessee by : Smt. Deepa Khare

Revenue by : Shri Ramnath Murkunde

सुनवाई की तारीख / Date of conclusive Hearing : 28/03/2023

घोषणा की तारीख / Date of Pronouncement : 28/03/2023

आदेश / ORDER

PER G. D. PADMAHSHALI, AM;

By the present appeal, the assessee challenges the order of National Faceless Appeal Centre, Delhi [for short '**NFAC**'] dt. 30/05/2022 passed u/s 250 of the Income-tax Act, 1961 [for short '**the Act**'] for the assessment year [for short '**AY**'] 2018-19.



2. In the extant appeal we note that, assessee filed his return of income for the impugned year on 28/07/2018 u/s 139(1) of the Act declaring total income of ₹4,14,260/- along with a claim of exempt income for ₹12,84,20,662/-. For the reason of substantial increase in the capital, the return of the assessee was subjected to limited scrutiny by service of notice u/s 143(2). In a scrutiny proceedings, the Ld. AO called upon the assessee to prove the source of ₹12,80,20,000/- credited to capital account with supporting evidences. In reply thereto, the assessee submitted that, he was one of the partners of 'Ojas Project' which owns a development right in prime location of pune which yet to commence its project, however on the occasion of retirement his share in the future profits of the firm has been credited to his capital account without actual receipt. The assessee also contended that, since the credit to capital solely represents a share of future profit from his firm, the same is exempt u/s 10(2A) of the Act. This explanation however failed to inspire concurrence of Ld. AO.



3. In the event of failure to establish and explain the genuine source of credit, the Ld. AO placing reliance on 'CIT Vs Precision Finance (P) Ltd.' reported in 208 ITR 465 (Kol) and N. K. Proteins Ltd Vs CIT' reported in 2017-TIOL-23-SC-IT, held the transaction as bogus / non genuine and made an addition of ₹12,80,00,000/- u/s 68 of the Act as unexplained cash credit vide order dt. 16/03/2021.

4. In an appeal before the Ld. NFAC the appellate reiterated his submission; however of no success the matter came on board by the present appeal.

5. In the course of hearing, the Ld. AR adverting to paper book filed containing 52 pages has candidly submitted that, neither during assessment nor appellate proceedings the case was properly represented by adducing evidential documents, for the reason one more opportunity of being heard be accorded by remanding the matter back to AO. Per contra, the Ld. DR adverting to detailed discussion laid in the impugned order has strongly objected the plea.



6. Without going into the merits of the case, we note that, the appellant during assessment as well before first appellate authority has dejectedly failed explain the source of credit by adducing cogent documentary proof in support of his claim, for the reason in the interest of larger justice, we deem fit to remand the matter back to the file of assessing officer for *de-nova* adjudication preferably in three effective hearings to the appellant. Thus ordered accordingly.

5. Resultantly, the appeal of the appellant assessee is allowed for statistical purpose in above terms.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Tuesday 28th day of March, 2023.

-S/d-

S. S. GODARA
JUDICIAL MEMBER

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

पुणे / PUNE ; दिनांक / Dated : 11th day of May, 2023.

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

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|-----------------------------------|---------------------------------|-----------------------------|
| 1. अपीलार्थी / The Appellant. | 2. प्रत्यर्थी / The Respondent. | 3. The Pr. CIT -2, Pune |
| 4. The CIT(A)-NFAC, Delhi (India) | 5. DR, ITAT, Bench 'A', Pune | 6. गार्डफ़ाइल / Guard File. |

आदेशानुसार / By Order,
वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.