



॥ 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.295/PUN/2022

निर्धारण वर्ष / Assessment Year : 2014-15

Madhusudhan Hiralal Malu,

60, Nana Peth, Near Doke Talim,

Pune - 411 002

PAN : AAWPM9095K

..... अपीलार्थी / **Appellant**

बनाम / V/s.

Dy. Commissioner of Income Tax,

Central Circle 1(1),Pune

..... प्रत्यर्थी / **Respondent**

द्वारा / Appearances

Assessee by : Shri Kishor B. Phadke

Revenue by : Shri Ramnath P. Murkude

सुनवाई की तारीख / Date of conclusive Hearing : 27/03/2023

घोषणा की तारीख / Date of Pronouncement : 27/03/2023

आदेश / ORDER

PER G.D. PADMAHSHALI, AM;

The present appeal is directed against the order of Commissioner of Income Tax (Appeals)-11, Pune [for short ‘CIT(A)’] dt. 07/04/2022 passed u/s 250 of the Income-tax Act, 1961 [for short ‘the Act’]



2. Briefly stated the facts of the case are that; the assessee made cash deposit on six occasions totalling to ₹45,78,300/- into his SB a/c No. SB/4620 maintained with Mahesh Co-op Bank Nana Peth Branch Pune. The Ld. AO pinpointing variation in explanation about the source thereof offered in a statement u/s 131 of the Act vis-à-vis during assessment proceedings, has made addition of entire cash deposit u/s 68 as unexplained by an order u/s 143(3) of the Act dt. 30/12/2016. The assessee carried the matter before the Ld. CIT(A) in an appeal, however the Ld. FAA not appreciating the time gap between huge cash withdrawals and its subsequent deposits in the light of Hon'ble Apex Court decision in '*Sreelekha Banerjee & Ors. Vs CIT*' reported in 49 ITR 112 (SC), confirmed the addition u/s 68 of the Act.

3. In the course of hearing, the Ld. AR adverting to page 6-16 of paper book containing 121 pages, has reiterated all submissions made before the tax authorities to support appellant's claim of having pre-



held sufficient cash balance arising out of earlier withdrawals from the same bank where cash was subsequently re-deposited. *Per contra*, the Ld. DR relied upon the order of tax authorities below and submitted that, the assessee indeed failed to explain the true source of cash deposit, hence the addition is justified.

4. We have heard the rival contentions of both the parties; and subject to the provisions of rule 18 of ITAT Rules, 1963 perused the material placed on record and we note the appellant raised four grounds in all, wherein first three grounds in substance are directed against sole impugned addition made u/s 68 and ground no. 4 is general in nature calling no adjudication.

5. On a careful consideration of peculiar facts of the case and submission, we are of the view that the matter requires re-consideration at the level of assessing officer for the reason brushing aside the cash reconciliation statement brought on record by the assessee, whereby he tried to explain pre-deposit cash balance held by him.



6. In the extant we observed that, certain cash withdrawals were preceded the cash deposits to which the Ld. AO turned blind eye without first bringing out on record the utilization thereof so has to reject the claim cash balance pre-available. For the reason following the ration laid down by Hon'ble Punjab & Haryana High Court, in '*Shivcharan Dass Vs CIT*' [1980] 126 ITR 263, the Ld. AO is directed to reframe the assessment de-nova considering the link between cash withdrawal within three months prior to its deposit into bank, however after giving reasonable opportunity of being heard to the assessee.

2. Resultantly, assessee's appeal is allowed for STATISTICAL PURPOSE.

In terms of rule 34 of ITAT Rules, 1963 the order is pronounced in the open court on this Tuesday 27th day of March, 2023.

-S/d

S. S. GODARA
JUDICIAL MEMBER

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

पुणे / PUNE ; दिनांक / Dated : 12th day of May, 2023.

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

1. अपीलार्थी / The Appellant.

2. प्रत्यर्थी / The Respondent.

3. The Pr. CIT (Central), Pune

4. The CIT(A)-11, Pune (Mh-India)

5. DR ITAT, "A" Bench, Pune.

6. गार्डफाइल / Guard File.

Ashwini

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary

आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.