

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.723/PUN/2023
निर्धारण वर्ष / Assessment Year : 2013-14

Azimullah Shaikh, 182, Hanuman Parisar, Dhotre Ahmednagar- 413708. PAN : CZJPS4958R	Razamiya Mandir Kopargaon,	Vs.	ITO, Ahmednagar.	Ward-2,
Appellant			Respondent	

Assessee by : Shri M. N. Kulkarni
Revenue by : Shri A. K. Mahala

Date of hearing : 03.08.2023
Date of pronouncement : 07.08.2023

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of the National Faceless Appeal Centre, Delhi ['NFAC'] dated 30.05.2023 for the assessment year 2013-14.

2. Briefly, the facts of the case are that the appellant is an individual. No regular Return of Income was filed by the assessee for the assessment year 2013-14. The Assessing Officer on receipt of the information from the Director of Income Tax (Intelligence & Criminal Investigation), Nashik that the appellant was a member of co-operative society, namely, Niyojit United Co-operative Housing

Society which, in turn, purchased a property for a consideration of Rs.3,45,00,000/-, in which the appellant had invested a sum of Rs.6,00,000/- in cash, issued a notice u/s 148 of the Income Tax Act, 1961 ('the Act') on 30.03.2020. In response to the notice u/s 148, the appellant neither filed the return of income nor responded to the notices issued u/s 142(1) of the Act. In the circumstances, the Assessing Officer completed the assessment *ex-parte* vide order dated 26.09.2021 treating source of investments of Rs.6,00,000/- in cash as unexplained and added the same to the total income of the assessee u/s 69 of the Act.

3. Being aggrieved by the above addition, an appeal was filed before the NFAC contending that the investments of Rs.6,00,000/- was made out of share of the agricultural income from HUF. The appellant also filed supporting documents in respect of the agricultural land holdings and agricultural income etc. The NFAC rejected the additional evidence filed before him in the absence of any formal application for admission of such additional evidence in terms of Rule 46A of the Income Tax Rules, 1962 ('the Rules').

4. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

5. The ld. AR taking me through the additional evidence filed before the NFAC at page nos.13 to 25 of the Paper Book, submits that the approach adopted by the NFAC is hyper technical and the NFAC ought not to have rejected additional evidence.

6. On the other hand, ld. CIT-DR submits that he has no objection, if the matter is remitted to the Assessing Officer.

7. I have considered the rival submissions and perused the material on record. The Assessing Officer made addition of Rs.6,00,000/- as the appellant had failed to offer any explanation as to the source of the investments of sum of Rs.6,00,000/- in cooperative society, namely, Niyojit United Co-operative Housing Society. However, during the course of proceedings before the NFAC, the appellant attempted to produce the documents in respect of land holdings and agricultural income in support of the source of investments of Rs.6,00,000/-, the NFAC adopting the hyper technical approach rejected the additional evidence in the absence of any formal application under Rule 46A of the Rules. Thus, in my considered opinion, the approach adopted by the NFAC is highly unreasonable and hyper technical. Therefore, the order of the NFAC is set-aside and the matter is remitted to the file of the Assessing Officer for *de novo* consideration in the light of

additional evidence filed before the NFAC. Accordingly, the grounds of appeal filed by the assessee stand partly allowed.

8. In the result, the appeal filed by the assessee stands partly allowed.

Order pronounced on this 07th day of August, 2023.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 07th August, 2023.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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