

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "A" :: PUNE

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

आयकर अपील सं. / ITA No.679/PUN/2016
निर्धारण वर्ष / Assessment Year : 2011-12

Devendra P. Shah, F-109, Adinath Society, Pune – 411037. PAN: AHOPS 1104 N	V s	The Dy. Commissioner of Income Tax, Central Circle-1(1), Pune.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Suhas P Bora – AR
Revenue by	Shri Ramnath P Murkunde – DR
Date of hearing	28/08/2023
Date of pronouncement	30/10/2023

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

In ITA No.679/PUN/2016 for A.Y.2011-12, ITAT had passed an order on 12.10.2018. Subsequently, the assessee filed Miscellaneous Application No.54/PUN/2022. In the Miscellaneous Application, assessee claimed that one ground regarding addition of Rs.2,20,000/- on account of unexplained silver remained to be adjudicated. The ITAT passed an order in M.A. No.54/PUN/2022 allowing the Miscellaneous Application.

The paragraph 3 of the said order in the M.A. No.54/PUN/2022 is reproduced here as under :

“3. The ld.Departmental Representative(ld.DR) of the Revenue accepted the fact. In these facts and circumstances of the case, it is observed that ITAT erred in not adjudicating the issue of Rs.2,20,000/- unexplained investment in silver articles mentioned in Ground No.1 of the assessee filed in ITA No.679/PUNB/2016 for A.Y.2011-12. Therefore, we recall the order in ITA No.679/PUN/2016 only to the extent of adjudicating the Ground No.1 regarding unexplained investment of Rs.2,20,000/- in silver articles. Accordingly, grounds raised by the assessee are allowed.”

1.1 Accordingly, the case was re-fixed for hearing which was heard by this Bench.

2. The ld.Authorised Representative(ld.AR) of the assessee submitted that silver articles worth of Rs.8,80,000/- was found at assessee's premises which was belonging to the family members. Since there are four family members, the Assessing Officer(AO) treated assessee's share as 1/4th.

3. In the assessment order, AO has referred to other family members i.e. Nethra Shah and Preeti Shah. It has been brought to our notice by ld.AR that in the case of Nethra Shah and Preeti Shah, the ITAT has deleted addition of Rs.2,20,000/-.

3.1 The ITAT in ITA No.1504/PUN/2015 has held as under:

“10. Now, coming to the second addition on account of value of silver articles found from the assessee and her family members, which totalled to the value of Rs.8,80,000/-. The list of family members which is available at page 6 of the assessment order reflects 13 members of the said family and in view of family traditions, holding of silver articles to the extent of Rs.2,20,000/- merits to be accepted in the hands of assessee. Accordingly, we hold so. Thus, there is no merit in making aforesaid addition on account of silver of Rs.2,20,000/-. The grounds of appeal raised by the assessee are thus, allowed.”

4. Since facts are identical, maintaining the judicial discipline, respectfully following the orders of ITAT in ITA Nos.1504 & 1511/PUN/2015, we direct the AO to delete the addition of Rs.2,20,000/-. Accordingly, grounds of appeal related to addition of Rs.2,20,000/- is allowed.

5. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 30th October, 2023.

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

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

पुणे / Pune; दिनांक / Dated : 30th Oct, 2023/ 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, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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