

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.498/PUN/2024

निर्धारण वर्ष / Assessment Year : 2020-21

Sunshine Foods & Beverages, Gat No.121/2/2, Mundhewadi Road, Gopalpur, Pandharpur, Solapur 413304, Maharashtra PAN : ACAFS1403K	Vs.	DCIT, Central Circle-2(2), Pune
Appellant		Respondent

Assessee by : None
Revenue by : Shri Arvind Desai

Date of hearing : 17.04.2024
Date of pronouncement : 18.04.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of the CIT(A) Pune-12 dated 24.01.2024 for the assessment year 2020-21.

2. Briefly, the facts of the case are that the appellant is a partnership firm engaged in the business of trading in Packaging Mineral water. Return of income for the A.Y. 2020-21 was filed on 15.01.2021 declaring income of Rs.16,23,650/-. Against the said return of income, the assessment was completed by the Assessing

Officer (AO) vide order dated 20.03.2022 accepting the returned income. However, the AO taxed the amount of Rs.4,47,450/- found being excess cash found during the survey operations under the provisions of section 115BBE of the Act. The factual background of the addition is given below :

Survey operations u/s.133A of the Act were conducted in the business premises of the appellant on 10.02.2020. During the course of survey operations, the AO found that the appellant made unaccounted sales of loose water at Rs.30,96,137/- on which the appellant had voluntarily declared profit of Rs.10,66,000/-. The AO also noticed excess cash of Rs.4,47,450/- during the course of survey proceedings which was offered to tax by the appellant. However, the AO was of the opinion that since the appellant had failed to explain the source of excess cash of Rs.4,47,450/- he brought to tax the amount under the provisions of section 115BBE of the Act.

3. Being aggrieved, an appeal was filed before the CIT(A) who vide impugned order confirmed the action of the AO. Being aggrieved, the appellant is in appeal before the Tribunal in the present appeal.

4. When the appeal was called on, none appeared on behalf of the assessee despite due service of notice of hearing. Therefore, I proceed to dispose of the matter after hearing the ld. Sr. DR.

5. Heard the ld. Sr.DR and carefully examined the facts of the case. The solitary issue that arises for my consideration is whether or not the AO was justified in taxing the excess cash found amounting to Rs.4,47,450/- under the provisions of section 115BBE of the Act. On mere reading of the assessment order, it would be clear that the AO had found unaccounted sales of loose water amounting to Rs.30,96,137/-, the profit element embedded in such sales was offered to tax and shown in the return of income. The appellant accepted the excess cash found and offered to tax in the return of income. When addition was made on account of unrecorded sales, the natural presumption under the law is that the excess cash found is attributable to the unrecorded sales. It cannot be said that the source of excess cash found remains unexplained. The AO should have given the benefit of telescoping the addition made on account of unrecorded sales against addition on account of excess cash found, more particularly, it cannot be said that it is unexplained money attracting the provisions of section 115BBE of

the Act. In the given facts and circumstances of the case discussed above, the appeal of the assessee stands allowed.

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

Order pronounced on this 18th day of April, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 18th April, 2024.
Satish

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.