

IN THE INCOME TAX APPELLATE TRIBUNAL

PUNE "SMC" BENCH : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.5/PUN./2024
Assessment Year 2012-2013

Shri Nagesh Shrimant Gavali, Flat No.402, Sai Sayaji Darshan, behind Bharati Vidyapeeth, Katraj, PUNE- 411 046. PAN AFIPG6355H Maharashtra.	vs.	The Income Tax Officer, Ward-5(3), Income Tax Department, PMT Bldg., 2 nd Floor, Shankarsheth Road, Swargate, PUNE – 411 037. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Shri Shashank Deogadkar

Date of Hearing :	26.03.2024
Date of Pronouncement :	10.05.2024

ORDER

This assessee's appeal for assessment year 2012-13, arises against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2023-24/1057676539(1), dated 03.11.2023, in proceedings u/s.147 of the Income Tax Act, 1961 (in short "the Act").

Case called twice. None appears at assessee's behest. He is accordingly proceeded ex-parte.

2. I have heard learned DR and perused the case file.

3. Suffice to say, the Assessing Officer's herein had initiated sec.148/147 proceedings against the assessee after recording reasons to believe that he had deposited cash of

Rs.25,01,100/- in Vishweshwar Sahakari Bank Ltd., Pune in the relevant previous year Learned DR fails to dispute the clinching fact that the impugned re-assessment dated 26.12.2019 had assessed the assessee's alleged customer advance(s) in tuition activity(ies) of Rs.63,52,600/- after deducting 35% thereof as the corresponding expenditure; resulting in the impugned addition of Rs.41,29,190/- as well as interest of Rs.1,76,082/- received from fixed deposits with M/s. Baramati Sahakari Bank Ltd.; respectively. That being the case, there is no addition made regarding the foregoing sole reason of reopening. Faced with this situation, I quote CIT vs. Jet Airways (I) Ltd., [2011] 331 ITR 236 (Bom.) that the impugned reopening/re-assessment itself is not sustainable in law once the learned Assessing Officer had not added the foregoing sum of Rs.25,01,100/- (supra). Ordered accordingly.

All other pleadings on merits stand rendered academic.

4. This assessee's appeal is allowed in above terms.

Order pronounced in the open Court on 10.05.2024.

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 10th May, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The Pr. CIT, Pune concerned
4.	D.R. ITAT, "SMC" Bench, Pune.
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,
Pune.