

IN THE INCOME TAX APPELLATE TRIBUNAL

PUNE "SMC" BENCH : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.260/PUN./2024
Assessment Year 2016-2017

Shri Dhanraj Ramchandra Chandwani, 144E, Block No.9, 2 nd Floor, Station Road, KOLHAPUR. Maharashtra. PIN -416 001. PAN ABIPC8606M	vs.	The Income Tax Officer, Ward-2(1), Aayakar Bhavan, 31-C/2, E-Ward, Tarabai Park, KOLHAPUR – 416 003. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Pramod S. Shingte
For Revenue :	Shri Manish Mehta

Date of Hearing :	19.03.2024
Date of Pronouncement :	10.05.2024

ORDER

This assessee's appeal for assessment year 2016-17, arises against the Addl./JCIT(A)-7, Kolkata, Kolkata's Din and Order No.ITBA/APL/S/250/2023-24/1058756400(1), dated 14.12.2023, in proceedings u/s.143(3) of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. The assessee's sole substantive grievance herein challenges correctness of both the learned lower authorities action making sec.41(1) cessation of liability addition of Rs.14,37,096/- in the course of assessment dated 28.12.2018

as upheld in the CIT(A)'s lower appellate discussion reading as under :

“V. DECISION:- I have gone through assessment order passed by assessing officer (AO) and detail submission made by appellant.

All the grounds of appellant considered together.

The fact of the case is AO had made third party enquiry and gathered evidence and made additions of Rs.14,37,096/- u/s 41(1) as cessation of trading liability of JK Enterprises towards appellant. However, appellant had said that he had no trading transaction with third party, M/s JK Enterprises .

During assessment proceedings appellant had submitted a copy of petition filed before civil court against a third party M/s JK Enterprises. Appellant had stated that he had no trading transaction with third party, M/s JK Enterprises , rather had a share trading account with M/s JK Enterprises.

The AO had made detail third party enquiry and gathered enough evidence from M/s JK Enterprises like copy of confirmation for free safe sugar given copy of respective debit note along with proof of delivery, list of debtors wherein appellant's name is duly reflected etc proving that appellant indeed had a trading liability towards M/s JK

Enterprises. M/s JK Enterprises had written off the same trading liability.

The appellant emphasized that he had filed a copy of petition before civil court. However merely filing a petition before any court has no evidentiary value so long as court has not passed any order/made any final decision. The copy of petition is merely assertion of one party in exclusion of other party, and hence cannot be treated as factual evidence. The factual evidences gathered by AO through third party enquiry outweigh the assertion made in the copy of petition.

Therefore, appeal filed by appellant is dismissed.”

3. Mr. Mehta vehemently supported the impugned addition regarding cessation of liability. He failed to pinpoint any specific material in assessee's books of account in support of the learned lower authorities impugned action invoking sec.41(1) of the Act.

4. Faced with this situation, I quote Sugauli Sugar Works vs. CIT 236 ITR 518 (SC) that the impugned addition does not get attracted merely because of lapse of long time or in absence of any actual cessation in assessee's books of account. I thus deem it as a fit case to delete the impugned addition in very terms.

3. 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.