

IN THE INCOME TAX APPELLATE TRIBUNAL

PUNE "SMC" BENCH : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.291/PUN./2024 [E-APPEAL]

Assessment Year 2012-2013

Shri Motiram Kisan Kahandal, Girnare At Post Girnare Tal & Dist. NASHIK – 422 203 Maharashtra. PAN CBCPK1565K	vs.	The CIT (Appeal), Gadkari Chowk, NASHIK. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri B D Khairnar
For Revenue :	Shri Manish Mehta

Date of Hearing :	20.03.2024
Date of Pronouncement :	16.05.2024

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/250/2023-24/1059157863(1), dated 28.12.2023, in proceedings u/s.147 of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. The assessee pleads the following substantive grounds in the instant appeal :

"Being agricultural income which is not to be consider as business income and hence assessment demand of Rs.11,05,580/- this is a artificial demand which was

derived by way of ex-parte assessment not giving me opportunity how cash deposited in bank of Rs.2,80,308/- and Rs.15,00,000/- cheques deposited sales of inherited land come from my father sold as agri land which is not capital assets which is exempted income hence not consider as income.

Cancellation of demand of Rs.11,05,580/-.

As far as CIT(A) is concerned I have not received physical notices and hence order passed by CIT(A) as ex-parte way and hence requested you sir please consider my appeal. This is my prayer.”

3. The assessee's sole substantive grievance raised in the instant appeal challenges correctness of both the learned lower authorities action making sec.68 unexplained cash credit addition of Rs.17,80,305/- in the course of assessment herein dated 23.11.2019 as upheld in the lower appellate discussion. I make it clear that the assessee's stand from the very beginning attributes source of his impugned cash deposits to sale of agricultural lands executed in the month of June 2011 which is nowhere in dispute as the learned Assessing Officer himself has partly allowed some relief to the extent of Rs.8 lakhs deposited in M/s. Nashik Merchants Co-op Bank made between 12th to 29th July, 2011. The Revenue fails to rebut the fact that the assessee's impugned cash

deposits in M/s. UCO Bank had been made between the period from 29.06.2011 to 30.10.2011 thereby giving rise to presumption that the same *prima facie* formed part of the sale consideration received in cash as per Mrs. Malini Rele vs. ITO [1994] 49 ITD 43 (Mum.) (TM). The fact also remains that the assessee has not provided all the relevant details in support of his stand adopted throughout so as to get the impugned claim accepted in entirety. Faced with this situation, it is deemed appropriate that a *lump sum* addition of Rs.2 lakhs only out of Rs.17,80,305/- would be just and proper with a rider that the same shall not be taken as precedent in any other case(s). The assessee gets relief of Rs.15,80,305/- in otherwords. Ordered accordingly.

No other ground has been pressed during the course of hearing.

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

Order pronounced in the open Court on 16.05.2024.

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 16th 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.