

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
AND  
Ms. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.966/PUN/2023

निर्धारण वर्ष Assessment Year : 2017-18

Vilas Sampatrao Garud, 2A/2B, Sr.No.54/2A/2B, Yashashree Park, Karve Road, Pune 411 052 Maharashtra PAN : ADTPG1264G	Vs.	Assessment Unit, Income Tax Dept.
Appellant		Respondent

Assessee by : Shri Charuhas Dwarkanath Upasani

Revenue by : Shri Sourabh Nayak

Date of hearing : 03.06.2024

Date of pronouncement : 03.06.2024

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is an appeal filed by the assessee directed against the order dt. 17.03.2023 passed by the Assessing Officer us/.143(3) r.w.s.263 r.w.s.144B of the Income-tax Act, 1961 (hereinafter referred to as 'The Act') for the assessment year 2017-18.

2. Briefly, the facts of the case are that the appellant is an individual engaged in Trading of Liquor under the name "M/s. Sachin Wines. The Return of Income for the A.Y. 2017-18 was filed on 27.10.2017 declaring income of Rs.79,90,930/-. The case was selected for Scrutiny to verify Large value of cash deposited in bank account during

demonetization period. Against the said return of income, the Assessing Officer accepted the returned income vide order dated 10.12.2019 passed u/s.143(3) of the Act. Thereafter, the Id. CIT-2, Pune in exercise of powers vested with him u/s.263 set-aside the order dated 10.12.2019, remanded the matter to the file of AO for *denovo* assessment. The AO vide order dated 17.03.2023 passed u/s.143(3) r.w.s.263 made addition of Rs.42,40,000/-. While doing so, the AO brought to tax the cash deposits made during demonetization period in Kallappanna Awade Ichalkaranji Janata Sahakari Bank Ltd. treating the same as undisclosed income u/s.68 of the Act.

3. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

4. We heard both the sides and perused the relevant material on record. The solitary issue to be decided in the instant appeal is whether or not the impugned order in question is an appealable order? Section 253(1) mandates filing of appeals before the Appellate Tribunal where an assessee is aggrieved by the orders passed by the following authorities:

“253.<sup>93</sup> (1) Any assessee aggrieved<sup>94</sup> by any of the following orders may appeal to the Appellate Tribunal against such order—

(a) an order passed by a <sup>95</sup>[Deputy Commissioner (Appeals)] <sup>96</sup>[before the 1st day of October, 1998] <sup>97</sup>[or, as the case may be, a Commissioner (Appeals)] under <sup>98</sup>[\*\*\*] <sup>99</sup>[section 154], <sup>1</sup>[\*\*\*] section 250, <sup>2</sup>[section 270A,] <sup>3</sup>[section 271, section 271A <sup>4</sup>[, section 271AAB, section 271AAC, section 271AAD]<sup>5</sup>[, section 271J] or section 272A]; or

[(aa) *an order passed by a Joint Commissioner (Appeals) under section 154, section 250, section 270A, section 271, section 271A, section 271AAC, section 271AAD or section 271J; or*

[(b) an order passed by an Assessing Officer under clause (c) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section

132A, after the 30th day of June, 1995, but before the 1st day of January, 1997; or]

[(ba) an order passed by an Assessing Officer under sub-section (1) of section 115VZC; or]

[(c) *an order passed by,--*

(i) *a Principal Commissioner or Commissioner under section 12AA or section 12AB or under clause (vi) of sub-section (5) of section 80G or under section 263 or under section 270A or under section 271 or under section 272A or an order passed by him under section 154 amending any such order; or*

(ii) *a Principal Chief Commissioner or Chief Commissioner or a Principal Director General or Director General or a Principal Director or Director under section 263 or under section 272A or an order passed by him under section 154 amending any such order; or]*

[(d) an order passed by an Assessing Officer under sub-section (3), of section 143 or section 147 <sup>7c</sup>[or section 153A or section 153C] in pursuance of the directions of the Dispute Resolution Panel or an order passed under section 154 in respect of such order;] †or

[(e) an order passed by an Assessing Officer under sub-section (3) of section 143 or section 147 or section 153A or section 153C with the approval of the <sup>9</sup>[Principal Commissioner or] Commissioner as referred to in sub-section (12) of section 144BA or an order passed under section 154 or section 155 in respect of such order;] †or

[(f) an order passed by the prescribed authority under <sup>11</sup>[sub-clause (iv) or sub-clause (v) or] sub-clause (vi) or sub-clause (via) of clause (23C) of section 10.]

(2) The <sup>9</sup>[Principal Commissioner or] Commissioner may, if he objects to any order passed by a <sup>12</sup>[Deputy Commissioner (Appeals)] <sup>13</sup>[before the 1st day of October, 1998] <sup>14</sup>[or, as the case may be, \*a <sup>14a</sup>[the Joint Commissioner (Appeals) or the] Commissioner (Appeals)] under <sup>15</sup>[section 154 or] section 250, direct the <sup>16</sup>[Assessing] Officer <sup>17</sup>to appeal to the Appellate Tribunal against the order.

(2A) <sup>18</sup>[\*\*\*]

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within sixty days of the date on which the order sought to be appealed against is communicated to the assessee or to the <sup>19</sup>[Principal Commissioner or] Commissioner, as the case may be :

**[Provided** that in respect of any appeal under clause (b) of sub-section (1), this sub-section shall have effect as if for the words "sixty days", the words "thirty days" had been substituted.]

(3A) <sup>21</sup>[\*\*\*]

[(4) The Assessing Officer or the assessee, as the case may be, on receipt of notice that an appeal <sup>22a</sup>[*against an order*], has been preferred under sub-section (1) or sub-section (2) by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against <sup>22b</sup>[*any part of such order*], and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).]

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is satisfied that there was sufficient cause<sup>23</sup> for not presenting it within that period.

[(6) An appeal to the Appellate Tribunal shall be in the prescribed form<sup>25</sup> and shall be verified in the prescribed manner and shall, in the case of an appeal made, on or after the 1st day of October, 1998, irrespective of the date of initiation of the assessment proceedings relating thereto, be accompanied by a fee of,—

- (a) where the total income of the assessee as computed by the Assessing Officer, <sup>26</sup>in the case to which the appeal relates, is one hundred thousand rupees or less, five hundred rupees,
- (b) where the total income of the assessee, computed as aforesaid, <sup>26</sup>in the case to which the appeal relates is more than one hundred thousand rupees but not more than two hundred thousand rupees, one thousand five hundred rupees,
- (c) where the total income of the assessee, computed as aforesaid, <sup>26</sup>in the case to which the appeal relates is more than two hundred thousand rupees, one per cent of the assessed income, subject to a maximum of ten thousand rupees,
- <sup>27</sup>[(d) where the <sup>28</sup>subject matter of an appeal relates to any matter, other than those specified in clauses (a), (b) and (c), five hundred rupees:]

[**Provided** that no fee shall be payable in the case of an appeal referred to in sub section (2), or, sub-section (2A) as it stood before its amendment by the Finance Act, 2016, or, a memorandum of cross objections referred to in sub-section (4).]

(7) An application for stay of demand shall be accompanied by a fee of five hundred rupees.]

[(8) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of appeal to the Appellate Tribunal under sub-section (2), so as to impart greater efficiency, transparency and accountability by—

- (a) optimising utilisation of the resources through economies of scale and functional specialisation;

(b) introducing a team-based mechanism for appeal to the Appellate Tribunal, with dynamic jurisdiction.

(9) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (8), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

**Provided** that no direction shall be issued after the 31st day of March, <sup>31</sup>[2025].

(10) Every notification issued under sub-section (8) and sub-section (9) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.]”

5. In the present case, it is found that the impugned order is passed by the AO u/s.143(3) r.w.s. 263 which does not fall in any of categories of orders mentioned in the above section, therefore, it is not an appealable order u/s.253(1) of the Act. Thus, the appeal filed by the appellant is not maintainable and hence dismissed as such.

6. In the result, the appeal is dismissed.

Order pronounced on this 03<sup>rd</sup> day of June, 2024.

**Sd/-**  
**(ASTHA CHANDRA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 03<sup>rd</sup> June, 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, “B” बेंच,  
पुणे / DR, ITAT, B” Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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