



BEFORE HON'BLE SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

AND

SHRI VINAY BHAMORE, JUDICIAL MEMBER

ITA No. 999/PUN/2024

Assessment Year : 2017-18

Ashok Ravsaheb Tambe

1630, MHB Colony, Nr Kamgar Nagar,

Kalyan Bhavan, Satpur Colony, Nashik-422007

PAN: AEYPT7687J.

..... *Appellant*

V/s

The Income Tax Officer,

Ward-3(1), Nashik.

..... *Respondent*

Appearances

Assessee by : None for the Assessee

Revenue by : Mr Umesh Phade ['Ld. DR']

Date of conclusive Hearing : 29/07/2024

Date of Pronouncement : 01/08/2024

ORDER

PER G. D. PADMAHSHALI, AM;

In this appeal assessee challenges DIN & Order No. ITBA/APLS/S/250/2023-24/1062404804(1) dt. 11/03/2024 passed u/s 250 of the Income-tax Act, 1961 ['the Act' hereinafter] by the Addl./JT Commissioner of Income Tax Appeals-3, Bengaluru ['CIT(A)' hereinafter] which in turn arisen out of order of assessment passed u/s 143(3) of the Act by the Income Tax Officer, Ward-3(1), Nashik ['AO' hereinafter] for assessment year 2017-18 ['AY' hereinafter];

2. The case was called twice, none appeared at the bequest of the appellant, in absence of any application seeking adjournment and none prosecution, after the primary briefing from the Ld. DR we deem it fit to proceed & adjudicate the issue *ex-parte* u/r 24 of ITAT-Rules, 1963, ergo advanced accordingly.



3. Heard the Ld. DR and subject to rule 18 of ITAT-Rules 1963 perused material placed on record, considered the facts in the light of settled legal position.

4. We note that, the assessee is an individual who filed his return of income u/s 139(1) of the Act declaring total income at ₹1,98,650/-. The return of the assessee was selected for scrutiny and was called upon to explain the source & nature of ₹7,51,939/- cash deposited by him into his bank account maintained with 'Nashik Merchant Co-op. Bank Ltd.' ['NMCBL' hereinafter]. In the event of assessee's failure to offer satisfactory explanation about nature & source thereof, the Ld. AO treated such cash deposits as unexplained money u/s 69A in the hand of assessee and brought the same to tax u/s 115BBE of the Act. The appeal thereagainst before the Ld. CIT(A) did yield no favourable results to the assessee. Aggrieved thereby the assessee came in present appeal before the Tribunal.

5. We further note that, prior to aforestated cash deposit the assessee had obtained a 'Gold-Loan' of ₹8,50,000/- on 12/05/2016 from the same bank and made equal cash withdrawal for the purpose of his daughter's marriage who recently completed her Master in Pharmacy. Postponing assessee-father's plan, the daughter wanted to continue further education/studies and by her fortunate she was able to get admission in '*Narsee Monjee Institute of Management Studies, Shirpur, Dist. Dhule on 16/07/2016 for MBA degree*'. But natural the assessee had to postpone daughter's marriage plan due to which the balance cash available with him after payment of MBA admission Fee was deposited into the same bank, since as was not required for the time-being. Though the period of cash deposits



coincided with period of demonetisation, the source available with assessee in our considered view has been fully & satisfactorily explained by him before both the tax authorities below. The Revenue on the other hand could hardly dismantle the explanation by bringing any deprecative material on record to prove otherwise.

6. The burden of proof that, the nature & sources of amount of cash deposits made into bank account do not in any way represents income is on claimant assessee and when discharged the same fully & satisfactorily then the Revenue in view of Hon'ble Apex Court decision in '*Shashi Garg Vs PCIT*' [2020, 113 taxmann.com 93 (SC)] is not entitled to treat the same as unexplained income u/s 69A of the Act and saddled the assessee on mere conjecture & guesswork.

7. In view of the aforesaid discussion and applying the ratio laid in the former judicial precedents, we see no reasons in countenancing the action of both the tax authorities below. Consequently, we set-aside the impugned order and direct the Ld. AO to delete the addition in its entirety.

8. **The assessee's appeal in result stands ALLOWED.**

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Thursday, 01st August, 2024.

-S/d-

VINAY BHAMORE
JUDICIAL MEMBER

पुणे / PUNE ; दिनांक / Dated : 01st August, 2024.

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.

2. प्रत्यर्थी / The Respondent.

3. The Pr. CIT Concerned.

4. The CIT(A)/NFAC Concerned.

5. DR, ITAT, 'SMC' Bench, Pune

6. गार्डफाइल / Guard File.

आदेशानुसार / By Order

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER