



IN THE INCOME TAX APPELLATE TRIBUNAL, 'SMC' BENCH PUNE
BEFORE HON'BLE SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER



ITA No. 1349/PUN/2024
Assessment Year : 2016-17

Jeetendra Fakirchand Chordiya
Flat No.-2, Madhuban-C,
Premlok Park, Chinchwad, Pune-411033
PAN: AATPC2327H.

..... ***Appellant***

V/s

The Income Tax Officer,
Ward-9(1), Pune.

..... ***Respondent***

Appearances

Assessee by : Self Representation ['Ld. Assessee']

Revenue by : Mr Akhilesh Srivastava ['Ld. DR']

Date of conclusive Hearing : 03/09/2024

Date of Pronouncement : 03/09/2024

ORDER

PER G. D. PADMAHSHALI, AM;

This appeal of the assessee impugns the DIN & Order No. ITBA/APLS/S/250/2024-25/1063985342(1) dt. 09/04/2024 passed u/s 250 of the Income-tax Act, 1961 ['the Act' hereinafter] by the first appellate authority ['Ld. CIT(A)' hereinafter] passed which in turn confirmed the order of assessment passed u/s 143(3) of the Act by the Income Tax Officer, Ward-9(1), Pune ['Ld. AO' hereinafter] for assessment year 2016-17 ['AY' hereinafter];



2. We have Heard the rival parties and subject to rule 18 of ITAT-Rules 1963 perused material placed on record, considered the facts in the light of settled legal position.

3. 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 ₹2,20,710/-. The return of the assessee was selected for limited scrutiny and was called upon to explain the source & nature of cash deposited by him into his bank accounts maintained with 'Jai-Hind Urban Co-operative Bank Limited' [JHUCBL hereinafter]. In the event of assessee's failure to offer satisfactory explanation about nature & source thereof, the Ld. AO treated the difference of cash withdrawn and cash deposits i.e. ₹15,70,497/- as unexplained money u/s 69A in the hand of assessee and brought the same to. 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.

4. The record reveals us that, the assessee is a pigmy agent employed/deployed by JHUCBL to collect the cash pigmy on its behalf from its account holder/customer on regular or daily basis



upon which the assessee is remunerated at fixed percentage of commission. The daily cash pigmy collection is then credited to assessee's account and thereafter credited to respective account of the customers. During the year under consideration it is seen from the material placed on records that the assessee had Saving as well as Current Account with JHUCBL wherein the daily pigmy collection made by him was first credited on receipt of cash and therefrom transferred to respective customers account as per the instalment list. The annual debit & credit summation of respective saving & current accounts shows no deviations and further there is hardly any credit entry in these accounts to suggest any personal cash deposited by the appellant requiring or calling for any explanation in relation to source & nature thereof. Since the cash deposits credited throughout the year also includes coinciding period of demonetisation, the source of cash available with appellate assessee in our considered view has been fully & satisfactorily explained by him before both the tax authorities below and in the present proceedings too. The Revenue on the other hand could hardly dismantle the explanation by bringing any deprecative material on record to prove otherwise.



5. 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. 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. The grounds accordingly stands allowed.

6. In result the appeal of the assessee is ALLOWED.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Tuesday, 03rd day of September, 2024

-S/d-

VINAY BHAMORE
JUDICIAL MEMBER

पुणे / PUNE ; दिनांक / Dated : 03rd day of September, 2024

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

1. अपीलार्थी / The Appellant.

2. प्रत्यर्थी / The Respondent.

4. The CIT(A)/NFAC Concerned.

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

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

3. The Pr. CIT Concerned.

6. गार्डफाइल / Guard File.

आदेशानुसार / By Order

वरिष्ठ निजी सचिव / Sr. Private Secretary

आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.