



।आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B" :: PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL
MEMBER AND
DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.429 to 431/PUN/2024
निर्धारण वर्ष / Assessment Years: 2011-12 to 2013-14

Tayyababi Abdul Raheman Sayyad, Hamal Galli NarsingGirani, Latur – 413512. PAN: CUBPS2682D	Vs	The Income Tax Officer, Ward-2, Latur.
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Sharad A Shah – AR
Revenue by	Shri Sourabh Nayak – Addl.CIT(DR)
Date of hearing	05/08/2024
Date of pronouncement	30/08/2024

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

These three appeals filed by Assessee are against the separate orders of Id.Commissioner of Income Tax(Appeal)[NFAC], passed under section 250 of the Income tax Act, all dated 08.01.2024 for the A.Y.2011-12, 2012-13 and 2013-14 respectively. All these three were heard together as issue involved was common. For the sake of convenience, we take ITA No.431/PUN/2024 for



A.Y.2013-14 as “lead” case. The assessee for A.Y.2013-14 has raised the following grounds of appeal :

“1. The Ld.AO erred and Ld CIT(A) erred in adding the amount being solatium and interest u/s 23(1A) of Rs.29,68,818/- as interest u/s 28 and thereby erred in taxing Rs.14,84,409/-(after giving 50% deduction u/s 57(iv)).

2. The Ld. AO erred and Ld.CIT(A) erred in adding the amount of interest received of Rs.2,19,38,323/- u/s 28 of the Land Acquisition Act and thereby erred in taxing Rs.1,09,69,162/- (after giving 50% deduction u/s 57(iv)).

3. The Ld AO erred in taxing the amount which was not effectively, received by me.

2.1 The amount of Rs.2,49,07,141/- is though received by me, 50% of that is required to be kept in as deposit/bank guarantee. Accordingly, 50% amount has neither effectively received nor accrued to me and thus, the same may please not be taxed.

4. The appellant craves it right to add to or alter the Grounds of Appeal at any time before or during the course of hearing of the case.”

Submission of Id.AR :

2. The Id.Authorised Representative(Id.AR) of the assessee submitted that interest earned by assessee is exempt. Ld.AR also filed application for admission of additional evidence. Ld.AR submitted that these documents could not be produced before the AO &ld.CIT(A) as these were received by the assessee after the assessment order. Ld.AR vehemently submitted that these documents go to the root of the issue and therefore needs to be admitted as additional evidence. Ld.AR filed copy of English



Translation of Order of District Collector, Latur dated 26.11.2012.

Ld.AR also filed copy of the decision of the Hon'ble Supreme Court in Civil Appeal No.1081 of 2012 in assessee's own case.

Regarding the interest earned, ld.AR relied on the decision of the Hon'ble Bombay High Court in the case of Shivajirao Ghanwat (WP No.54020 of 2013). Ld.AR also relied on ITAT Pune's decision in the case of Basweshwar Bidwe in ITA No.1012/PUN/2017

Submission of ld.DR :

3. The Ld.DR for the Revenue relied on the order of the Assessing Officer and ld.CIT(A).

Findings & Analysis :

4. We have heard both the parties and perused the records. For A.Y.2013-14 assessee has taken a ground that as per the direction of the Hon'ble Supreme Court, the District Collector of Latur has passed an order, according to which 50% of the amount was to be kept as guarantee. Therefore, ld.AR submitted that the said amount has not accrued to the assessee. Ld.AR relied on the order of the Hon'ble Supreme Court in the case of CIT vs. Hindustan



Housing and Land Development Trust Ltd., 161 ITR 524. It is observed that the documents filed as additional evidence goes to the root of the issue to be decided. However, these documents assessee could not file before the AO/CIT(A). We are convinced that there was sufficient cause for not filing these documents before the AO/ld.CIT(A). In these facts and circumstances of the case, we admit the additional evidence. Therefore, the order of the AO is set-aside to the Assessing Officer for de-novo adjudication after considering the additional evidence filed by the assessee. The Assessing Officer shall opportunity of hearing to the assessee. The assessee shall provide all the necessary documents before the AO. Accordingly, grounds of appeal raised by the assessee are allowed for statistical purpose.

5. In the result, appeal of the assessee is allowed for statistical purpose.

ITA Nos.429 & 430/PUN/2024 for A.Y.2011-12 & 2012-13 :

6. Since we have already discussed the issue of the “lead case” at length and the facts of ITA Nos.429 & 430/PUN/2024 are similar to the facts of ITA Nos.431/PUN/2024, therefore, our



ITA Nos.429 to 431/PUN/2024
Tayyababi Abdul Raheman Sayyad, Latur(03 appeals)[A]

decision shall apply *mutatis mutandis* to these two appeals also, accordingly, grounds of appeal raised by the assessee in ITA Nos.429 & 430/PUN/2024 are allowed for statistical purpose.

7. In the result, two appeals of the Assessee in ITA Nos.429 & 430/PUN/2024 are allowed for statistical purpose.

8. **To sum up, three appeals of the Assessee are allowed for statistical purpose.**

Order pronounced in the open Court on 30th August, 2024.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 30th August, 2024/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, “बी” बेंच, पुणे / DR, ITAT, “B” Bench, Pune.
6. गार्डफाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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