

IN THE INCOME TAX APPELLATE TRIBUNAL

NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

SMC MATTER

ITA no.301/Nag./2023

(Assessment Year : 2011-12)

Dashrath Madanlal Laddhad
Main Road, Kondhali, Near Ram Mandir
Nagpur 441 103 PAN – AFHPL5781P

..... Appellant

v/s

Dy. Commissioner of Income Tax
Circle-3, Nagpur

..... Respondent

Assessee by : None

Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 02/09/2024

Date of Order – 09/09/2024

ORDER

The present appeal has been filed by the assessee challenging the impugned order dated 19/06/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2011-12.

2. The short issue that I need to adjudicate in this appeal relates to unexplained source of income for FDR of ₹ 8,71,000, and cash deposit of ₹ 2,64,000 in the bank account.

3. During the course of hearing, the Registry has pointed out that there is a delay of 14 days in filing the present appeal. Before us, the assessee has

explained the delay by submitting a duly sworn affidavit. Being satisfied that there is a sufficient cause, we condone the delay.

4. Facts in brief are, as per ITS information available with the Department, the Assessing Officer noticed that the assessee, for the year under consideration, has made Time Deposits for ₹ 54,96,000, on various dates. As the assessee has not filed any income tax return for assessment year 2011-12, hence, the case was re-opened by issuing notice dated 22/03/2018, was issued under section 148 of the Income Tax Act, 1961 ("*the Act*") after recording reasons and obtaining prior approval from the competent authority on 15/03/2018, and such notice was served on the assessee 22/03/2018. The assessee, in response to the notice dated 22/03/2018, filed his return of income on 17/12/2018, declaring income of ₹ 62,942/-. The assessee submitted before the Assessing Officer that there is no time deposit for ₹ 54,96,000 (as reported in ITS Statement) actually made during the period from 01/04/2010 to 31/03/2011, but made for ₹ 8,71,000 on account of FDR and ₹ 2,64,000 on account of cash deposit, which was reported wrongly many times on various dates as shown in the ITS statement by the Bank. The assessee submitted that the majority of old FDRs were renewed during the year. The Assessing Officer upon reconsideration of the matter held as follows:-

"4. The Authorized Representative of the assessee was asked to explain the source of income for FDR for Rs. 871000/- and Cash Deposits for Rs. 264000/- vide order sheet dated 21.12.2018. The A.R. of assessee was unable to explain the source for deposits, thus the amount of Rs.1135000/- (Rs. 871000/- + Rs. 264000/-) is income of assessee from undisclosed source and the said amount is added to the income of the assessee. Further penalty proceedings u/s 271(1)(c) is separately initiated for filing inaccurate particulars of income.

5. The matter came up before the first appellate authority, wherein the learned CIT(A) confirmed the addition so made by the Assessing Officer relying upon the judgment of the Hon'ble P&H High Court in Nirmal Singh & Ors., Cr. no.3791/2013 (O&M) judgment dated 01/05/2024, and held that in the absence of any reasonable, cogent and valid arguments / contentions advanced by the assessee to counter the Assessing Officer's decision, the addition was confirmed. Aggrieved, the assessee is in further appeal before the Tribunal.

6. When the case was called for hearing neither the assessee nor any of his authorised representatives appeared before us to assist the Bench in disposing off the appeal filed by the assessee. However, we proceeded on our own to dispose off the case.

7. We have heard the arguments of learned Departmental Representative, perused the material available on record and gone through the orders of the authorities below. The fixed deposits were mostly made out of renewal of old deposits and no fresh funds were invested. There was agricultural income of ₹ 7,14,770, which was accepted during assessment proceedings to justify cash deposit of ₹ 2,64,000. Thus, nature and source of investment is adequately explained. Accordingly, the addition is deleted.

8. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open Court on 09/09/2024

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED: 09/09/2024

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur