

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

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.583/PUN/2024

निर्धारण वर्ष / Assessment Year : 2017-18

ITO, Ward-1, Ahmednagar	Vs.	Jai Sai Traders, 2247, Adate Bazar, Ahmednagar 414 001 Maharashtra PAN : AADFJ0593N
Appellant		Respondent

Assessee by : None
Revenue by : Shri Ramnath P. Murkude

Date of hearing : 30.09.2024
Date of pronouncement : 30.09.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM :

This is an appeal filed by the Revenue directed against the order of National Faceless Appeal Centre, Delhi dated 29.01.2024 passed u/s.250 of the Income-tax Act, 1961 (hereinafter also called 'the Act') for the assessment year 2017-18.

2. Briefly, the facts of the case are that the respondent-assessee is a partnership firm stated to be dealing in Trading of Sugar and defunct owing to incurring of losses. No regular return of income under the provisions of section 139(1) was filed by the appellant for the A.Y.

2017-18. Based on the information that the appellant made cash deposits during the demonetization period to the extent of Rs.76,50,000/- with Shahar Sahakari Bank, Ahmednagar and Rs.5,54,000/- with Nashik Merchants Co.op Bank Ltd., Nashik, the Assessing Officer (AO) issued notice u/s.142(1) calling upon the appellant to file the return of income. The appellant had not complied with the notice u/s.142(1). The Assessing Officer, after calling for the statements of the transaction from the concerned banks u/s.133(6), proceeded with framing of the assessment. On verification of the said bank statements, the AO found that during the demonetization period, the appellant made cash deposit of Rs.54,76,000/- with Shahar Sahakari Bank, Ahmednagar and Rs.3,67,000/- with Nashik Merchants Co.op Bank Ltd., Nashik. Thus, the AO made addition of cash deposit to the tune of Rs.58,43,000/- as unexplained money u/s.69A invoking the provisions of section 115BBE of the Act. The AO also made addition of Rs.5,18,45,870/- treating the cash deposits in the bank account as undisclosed business turnover of the respondent-assessee firm by estimating the gross profit at 8% of the turnover.

3. Being aggrieved by the above additions, an appeal was filed before the NFAC challenging the addition of Rs.58,43,000/- made u/s.69A of the Act and the addition of Rs.5,18,45,870/- made on the undisclosed turnover of the business of respondent-assessee firm, applying gross profit ratio at 8%. The NFAC while confirming the addition made u/s.69A of the Act, however, restricted the addition made on account of undisclosed business turnover to 0.5% of the turnover as against 8% adopted by the Assessing Officer.

4. Being aggrieved by the restriction of addition to 0.5% of the undisclosed turnover of the respondent-assessee firm, the Revenue is in appeal before the Tribunal in the present appeal.

5. The Id. DR submits that the finding of the NFAC restricting the gross profit addition in respect of undisclosed business turnover to 0.5% as against 8% made by the Assessing Officer is arbitrary, not based on any comparable instances of similar nature of business. Therefore, the order of the NFAC be vacated.

6. On the other hand, none appeared on behalf of the respondent-assessee firm despite due service of notice of hearing. The matter was already adjourned three times earlier. We therefore proceed to dispose of the appeal after hearing the Id. Departmental Representative.

7. We heard the Id. Sr. DR and perused the material on record. The respondent-assessee firm is stated to have engaged in Trading of Sugar. No regular return of income under the provisions of section 139(1) was filed for the assessment year under consideration. During the course of assessment proceedings, the Assessing Officer found that appellant made total cash deposits in the bank accounts excluding cash deposits during demonetization period to the tune of Rs.64,80,73,379/-. He treated such deposits as undisclosed business turnover of the respondent-assessee firm and estimated the income at 8% of the turnover. However, on appeal before the NFAC, the NFAC while confirming the action of the AO made u/s.69A of the Act, however, restricted the addition made on account of undisclosed business turnover of the respondent-assessee firm to 0.5% of such turnover, without referring to any comparable

instances of similar business. Thus, the approach of the NFAC adopting 0.5% of the undisclosed turnover as gross profit is arbitrary and not based on any evidence. Therefore, the order of the NFAC is vacated restoring the assessment order. Accordingly, the grounds of appeal filed by the Revenue stands allowed.

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

Order pronounced on this 30th day of September, 2024.

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

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 30th September, 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, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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