

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1527/PUN/2024

निर्धारण वर्ष / Assessment Year : 2011-12

Hrushikesh Govind Karmase, Near Bus Stop, Pimplas Road, Rahata, Ahmednagar – 423107 Maharashtra PAN : BBKPK4912K	Vs.	ITO, Ward-1, Ahmednagar
Appellant		Respondent

Assessee by : Shri S.N. Puranik
Revenue by : Shri B.S. Rajpurohit

Date of hearing : 07.10.2024
Date of pronouncement : 09.10.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the appellant directed against the order of National Faceless Appeal Centre (NFAC), Delhi dated 17.05.2024 for the assessment year 2011-12.

2. Brief facts of the case are that the appellant is an individual, no regular return of income for the A.Y. 2011-12 under the provisions of section 139(1) was filed. Subsequently, based on the information available in the AIR, that appellant purchased immovable property situated at Survey No.320/64/66/9, Rahata, Dist. Ahmednagar on 28.03.2011 for a consideration of Rs.32,25,000/-, the Assessing Officer (AO) formed an opinion that income escaped assessment to tax. Accordingly, a notice u/s.148 was issued on 27.03.2018. Notice u/s.142(1) along with questionnaire was issued on 23.07.2018. The appellant neither complied with notice u/s.148 nor notice u/s.142(1). The

Assessing Officer after calling for the information from the Sub-Registrar, Rahata & Talati u/s.133A and based on the information contained in the sale deed dated 28.03.2011 that the appellant purchased agricultural land for Rs.16,00,000/- and paid stamp duty and registration charges of Rs.1,91,530/- completed the assessment. While doing so, he rejected the explanation of the appellant that the investment was made out of funds provided by his father Mr. Govind Karmase. Eventually, the Assessing Officer vide order dated 14.12.2018 passed u/s.144 r.w.s.147 of the Act made addition of Rs.15,00,000/- as unexplained investment in immovable property.

3. Being aggrieved by the above assessment order, an appeal was filed before the NFAC contending that the AO ought not to have made addition of Rs.15,00,000/- as unexplained investment in the property rejecting the explanation of the appellant that the said investment is out of the funds provided by father of the appellant. During the course of proceedings before the NFAC, the appellant also filed additional evidences in the form of affidavit from his father explaining the source for the investment, bank statement, cash book of father etc. On receipt of the additional evidences, the NFAC had called for remand report from the AO. The AO had furnished the remand report vide letter dated 14.02.2020 accepting the explanation of the appellant which is placed at pages 2 and 3 of the paper book. However, the Id. NFAC dismissed the appeal by holding that the entire payment was made in cash. The cash book of father produced by the appellant is a self-serving document and this stand was never taken before the AO, and is nothing but an after-thought. Thus, the NFAC confirmed the addition made by the AO.

4. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

5. The Id. AR for the appellant submits that the NFAC ought not to have rejected the explanation furnished by the appellant in support of the sources for the investment in agricultural land in view of the fact that in the remand proceedings the AO has accepted the explanation of the assessee.

6. On the other hand, the Id. Sr. DR opposed the above submissions and submits that no interference by this Tribunal is called for.

7. I heard the rival submissions and perused the material on record. The solitary issue that arises for my consideration is whether the explanation tendered by the appellant in support of the sources for investment in agricultural land situated at Survey No.320/64/66/9, Rahata, Dist. Ahmednagar is cogent, plausible or not. It is undisputed fact that the appellant purchased agricultural land for a total consideration of Rs.16,00,000/- and paid the stamp duty and registration charges of Rs.1,91,530/- From the perusal of para 4 of the assessment order, it would reveal that the appellant had explained the source for investment that the payment for purchase of property was made by his father Mr. Goving Karmase and also filed copies of returns of his father for the A.Y. 2010-11 and 2011-12 copies of union bank statement etc. The AO had disbelieved his explanation stating that no supporting documents were filed. However, during the course of proceedings before the NFAC, the appellant had submitted cash book of his father and also affidavit of his father. The NFAC had rightly called for a remand report from the AO on the additional evidences filed by the appellant. From the perusal of the remand report, it would be clear that the AO had accepted the explanation tendered by the appellant and no adverse comments were made by the AO. However, the NFAC confirmed the addition made by the AO by holding that the cash book of the father submitted by the appellant is a self-serving document and the explanation tendered for the first time

before the NFAC is nothing but an afterthought and fabricated. The observations made by the NFAC are in the nature of *ipse dixit* and not supported by any material on record. The NFAC had not made any adverse comments on the entries in the cash book. Infact, the AO in the remand proceedings had accepted the genuineness of the cash book. In the absence of anything to contrary, the NFAC having called for the remand report from the AO should have accepted the AO's comments on the additional evidences furnished by the appellant. The observations of NFAC have no legs to stand. There is no material on record casting doubts on genuineness of explanation offered in support of sources for investment in agricultural land. Thus, the orders of the lower authorities are hereby reversed and direct the AO to delete the addition of Rs.15,00,000/-I order accordingly.

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

Order pronounced on this 09th day of October, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 09th October, 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, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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