

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1588/PUN/2024

निर्धारण वर्ष / Assessment Year : 2017-18

Satishchandra Kashinath Patel, Plot No.9 and 10, B/H.Moti Mangal Karyalaya, Hari Om Nagar, Arty Center Road, Nashik – 422 102, Maharashtra PAN : ABJPP6490R	Vs.	ITO, Ward-3(1), Nashik
Appellant		Respondent

Assessee by : None
Revenue by : Shri B.S.Rajpurohit

Date of hearing : 10.10.2024
Date of pronouncement : 10.10.2024

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of National Faceless Appeal Centre (NFAC), Delhi dated 07.06.2024 for the assessment year 2017-18.

2. Brief facts of the case are that the appellant is an individual, filed the return of income for the A.Y. 2017-18 on 18.12.2017 declaring total income of Rs.4,03,180/-. The return was processed u/s.143(1) of the Act. Subsequently, the case was selected for scrutiny under CASS. Statutory notices u/s.143(2)/142(1) along with questionnaire were issued to the appellant requiring him to explain the sources of cash deposits of Rs.15,85,380/- (13,78,880 + (2,06,500) made with Nashik Merchants Co.op Bank Ltd. and State Bank of India respectively. The appellant filed written submissions stating that cash deposited during the demonetization

period was received from sale of immovable property belonging to the HUF, in the year 2010. In support, the appellant submitted the sale deed copy and further stated that the said sale consideration was not deposited in the bank owing to dispute among the members of the HUF.

3. In order to verify the genuineness, the AO issued summons u/s.131 to Mr. Deepak Kashinath Patel, a member of the HUF. Statement of Mr. Deepak Kashinath Patel was recorded. He stated that the sale proceeds were received towards the land sold in the year 2010. The total consideration received was Rs.34,00,000/- out of which Rs.20,32,000/- was distributed among the members and the balance was kept with elder member of the HUF (the appellant) for meeting the legal charges and the litigations going on. In the absence of furnishing of PAN of the HUF and the return filed by the HUF, the AO held that the appellant had cooked up some story to prove the sources of cash deposits made by him in the above mentioned two banks. Eventually, the AO made addition of cash deposits of Rs.15,85,380/- as unexplained income u/s.69A and taxed the same invoking the provisions of section 115BBE of the Act.

4. Being aggrieved by the above assessment order, an appeal was filed before the NFAC, who vide impugned order confirmed the action of the Assessing Officer.

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

6. When the appeal was called on, none appeared on behalf of the appellant despite due service of notice of hearing. I therefore proceed to dispose of the appeal ex parte after hearing the Id. Departmental Representative.

7. I heard the Id. Sr. DR and perused the material on record. I had carefully perused the assessment order as well as the order of NFAC. The

solitary issue relates to addition u/s.69A of Rs.15,85,380/- for unexplained cash deposit in the saving account with Nashik Merchants Co.op Bank Ltd. and State Bank of India. The appellant had tendered explanation before the AO as well as the NFAC which is extracted on page 3 of the impugned order. The NFAC had merely extracted the explanation of the appellant and proceeded to dismiss the appeal by holding as under :

“Unfortunately for the appellant, this submission does not hold any strength, and fails hugely on merit.

The argument that the money in question was kept in a locker for six years, and then got deposited after a span of six years does not hold water with me.”

The above conclusion reached by the NFAC is unreasonable. It is most unfair on the part of the NFAC to arrive such a finding, without giving any reason as to why the explanation of the appellant is unacceptable. I therefore hold that the finding given by the NFAC is in violation of principles of natural justice. In the circumstances, I deem it appropriate to remit the matter to the file of CIT(A)/NFAC for *de novo* disposal of the issue in appeal on merits by passing a speaking order after allowing reasonable opportunity to the appellant, in accordance with law. I order accordingly.

8. In the result, the appeal filed by the appellant is partly allowed for statistical purposes.

Order pronounced on this 10th day of October, 2024.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 10th 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.