



।आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "SMC" :: PUNE

**BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT  
MEMBER AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER**

आयकर अपील सं. / ITA No.1559/PUN/2024

निर्धारण वर्ष / Assessment Year: 2017-18

Late Ranjeet Mukundrao Hasle (through KLegal heir Kusum M. Hasle), Sainik Puri, Prakash Nagar, Latur, Maharashtra – 413512. PAN: ACCPH9100Q	V s	The Income Tax Officer, Ward-2, Beed.
Appellant/ Assessee		Respondent / Revenue

Assessee by	Miss. Akshata Rathi – AR(Virtual)
Revenue by	Shri Prakash L Pathade - DR
Date of hearing	14/11/2024
Date of pronouncement	22/11/2024

**आदेश/ ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

This is an appeal filed by the Assessee directed against the order of Id.Commissioner of Income Tax(Appeal)[NFAC], under section 250 of the Income tax Act, 1961 dated 07.06.2024 for A.Y.2017-18. The assessee has raised the following grounds of appeal :

*“EX - PARTE ORDER PASSED BY THE CIT[A]*



1.1 *The Learned Commissioner of Income Tax (Appeals) [“the Ld. CIT(A)] has erred in not granting proper, sufficient and adequate opportunity of being heard to the while framing the order u/s 250 of the Act.*

1.2 *In the above circumstances it is humbly prayed to set aside the order passed by the CIT(A).*

*WITHOUT PREJUDICE TO ABOVE*

2. *ESTIMATION OF BUSINESS INCOME AT 2% OF THE TOTAL CREDITS IN BANK*

2.1 *The Ld. CIT(A) erred in affirming the action of estimating business income at 2% of the total credits in the bank and making addition of Rs.8,92,475/-.*

2.2 *The Ld. CIT(A) also erred in affirming the action of the Ld. AO in treating the entire cash deposits / transfers to bank account which is not even related to the business of the Appellant as business turnover / receipts.*

2.2 *In the facts and circumstances of the cases it is humbly submitted that such estimation of business income and business turnover without any basis is bad in law and therefore the addition made in this regard deserves to be deleted.*

3. *ADDITION OF CASH DEPOSIT OF ? 19.98,000/- U/S 69A OF THE Act*

3.1 *The Ld. CIT(A) erred in affirming the action of the Ld. AO in treating the cash deposits during 03.12.2016 to 30.12.2016 as unexplained and taxing the same u/s 115BBE of the Act.*

3.2 *The Ld. CIT(A) erred in confirming the action the Ld. AO of making such addition without verifying whether the currency deposited was SBIN or legal tender.*

3.3 *In the facts and circumstances of the case and in law the addition made is bad in law and therefore deserves to be deleted.*

4. *LIBERTY*

*The Appellant craves leave to add, alter, amend, delete or substitute any of the above grounds of appeal.”*

**Submission of Id.AR :**

2. Ld.Authorised Representative of the Assessee submitted that the assessment order for A.Y.2017-18 was passed ex-parte under section 144 of the Act. During the assessment proceedings, assessee had submitted that he was engaged in the business of petrol pump, which was closed down in F.Y.2017-18 due to illness. Assessee had informed the Assessing Officer(AO) that Assessee was critically ill, hence, was unable to submit the details. Assessing Officer passed an ex-parte assessment order deciding the total income at Rs.28,90,475/-. Ld.AR submitted that assessment order was passed on 23.12.2019 and unfortunately assessee expired on 31.01.2020. Ld.AR further submitted that during the appellate proceedings before the Id.CIT(A), assessee's mother had submitted these basic facts. However, Id.CIT(A) dismissed the appeal of the assessee stating that assessee had not complied to the notices. Ld.AR also brought to our notice that Id.CIT(A)'s order was passed on 07.06.2024 in the name of Ranjeet Mukundrao Halse, instead of passing it in the name of Legal Heir i.e.Kusum M. Halse. Ld.AR further pleaded that one more opportunity may kindly be provided to submit the details.

**Submission of ld.DR :**

3. Ld.Departmental Representative(ld.DR) for the Revenue relied on the order of AO and ld.CIT(A).

**Findings &Analysis :**

4. We have heard both the parties and perused the records. The ld.CIT(A) in Para 7 has held as under :

*“7. In the instance of the case the appellant failed to make any submissions in support of grounds of appeal, this gives rise to an undisputable conclusion that the assessee has got nothing more to say in this regard. I have gone through the record before me and based on the record I have decided to adjudicate the issue on the merits of the case. In the instant case the AO has rightly added in of Rs.28,90,475/-. Since the appellant failed to substantiate appellant’s claim and addition made by the Assessing Officer of Rs.19,98,000/- on account of unexplained money u/s 69A r.w.s. 115BBE of the I.T.Act, 1961 is hereby confirmed.”*

4.1 Thus, the ld.CIT(A) has confirmed the addition stating that assessee has failed to substantiate the claim. However, it is also observed that ld.CIT(A) has passed the order in the name of Ranjeet Mukundrao Halse on 07.06.2024, whereas Assessee has died on 31.01.2020. Thus, ld.CIT(A) has passed an order in name of Dead Individual. Therefore, the said order is bad in law, hence, order of ld.CIT(A) set-aside to ld.CIT(A) for denovo adjudication.



The Id.CIT(A) shall provide opportunity of hearing to the Legal Heir of Assessee. 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.

Order pronounced in the open Court on 22<sup>nd</sup> November, 2024.

**Sd/-**  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

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

पुणे / Pune; दिनांक / Dated : 22<sup>nd</sup> Nov, 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, "एस एम सी" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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