

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ 'जी', मुंबई ।
IN THE INCOME TAX APPELLATE TRIBUNAL "G", BENCH MUMBAI
BEFORE SHRI N.K.BILLAIYA, AM& SHRI SANJAY GARG, JM

आयकर अपील सं./ITA No.1090/Mum/2013

(निर्धारण वर्ष / Assessment Year :2009-10)

Mrs. Yoginiben Bipin Barot, 1 st Floor, Yigikrupa, 14, Jawaharnagar, S.V.Road, Goregaon (West), Mumbai- 62	Vs.	DCIT-9(2), Mumbai-400020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. :		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by : Shri R.N.Gami
राजस्व की ओर से /Revenue by : Shri H.M.Wanare
सुनवाई की तारीख / **Date of Hearing** : **21/09/2015**
घोषणा की तारीख/**Date of Pronouncement** **30 /10/2015**

आदेश / O R D E R

Per Sanjay Garg, Judicial Member :

The assessee has filed this appeal against the order of Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)]-20, Mumbai, dated 9-11-2012, for the assessment year 2009-10.

2. The assessee, in this appeal, is aggrieved in the action of the CIT(A) in confirming the addition made by the Assessing Officer (hereinafter referred to as the AO) of Rs.10,91,919/- on account of unexplained income. The AO noted that the assessee had not been able to explain the source of deposits made in the bank account from time to time for the period from 17.01.09 to 18.03.09 totaling Rs.10,91,919/-. The contention of the assessee, however, has been that such deposits were from

agriculture income and surplus from cash withdrawn during the year from the bank. The AO, however, did not agree with the contention of the assessee and made the above addition which has been further confirmed by the Ld. CIT(A).

3. At the outset, Id. AR submitted that this issue is covered by the decision of the coordinate bench of Tribunal dated 31-7-2015, passed in ITA No.1091/Mum/2013 in the case of Mr. Bipin Borat, who is husband of the present assessee.

4. We have carefully gone through the order of the Tribunal dated 31-7-2015 and found that the facts and issue involved in the present appeal are similar to case of the husband of the assessee and therefore are covered by the above decision of the Tribunal, wherein the Tribunal held as under :-

“6. We have considered the rival submissions. Ostensibly, the claim of the assessee was that the impugned cash deposits in the bank account have been made out of the cash available with him. The aforesaid was sought to be substantiated on the basis of Cash Book maintained for the period under consideration i.e. 01.04.2008 to 31.03.2009. A copy of the such Cash Book has also been placed in the Paper Book filed before us at pages 3 to 8. By referring to the specific sources, the plea of assessee was that cash deposits in bank came out of the opening cash balance, agricultural income earned and the surplus from cash withdrawn during the year from the bank, which was available with the assessee. We find that the explanation rendered by the assessee has been merely disbelieved and it is not a case where the explanation has been found to be false or otherwise untenable. In fact, one of the principal arguments emerging from the orders of the authorities below is with regard to the doubtful nature of agricultural income declared by the assessee of Rs. 4,75,689/-. In this context, the Ld. Representative for the assessee has referred to the Paper Book to point out that assessee was possessing adequate agricultural lands and he has also referred to the receipts of land revenue tax paid as well

as tractor bills, fertilizers bills and sale vouchers etc to show that money was spent on agricultural operations and that agricultural produce was also sold which had resulted in income of Rs. 4,75,689/-. In this context, the Ld. Representative referred to the assessment orders passed by the Assessing Officer u/s 143(3) of the Act for assessment years 2006-07 and 2008-09, wherein, the agricultural income declared by the assessee has been accepted. Copies of such assessment orders have been placed in the Paper Book. A perusal of such assessment orders reveal that the income declared by the assessee in the instant year is on a similar footing. The Books of Account maintained by the assessee have not been rejected inasmuch as the assessee had produced his Cash Book in support of the availability of cash on various dates for making the impugned deposits in the bank. There is no adverse finding in this regard in the orders of authorities below. Another aspect of the matter is that the opening cash balance as per the cash book corresponds to the Balance-sheet as on 31.03.2008, which was annexed to the return of income filed for assessment year 2008-09 and there is no adverse finding on this aspect. The availability of the opening cash balance is proved and we find no reasons to reject the same.

7. Considered in the aforesaid light, in the absence of any material to rebut the cash position shown by the assessee on the basis of its Cash Book for the year under consideration, we find that the lower authorities have unjustly considered the impugned cash deposits as unexplained. Accordingly, the order of CIT(A) is set aside and the Assessing Officer is directed to delete the impugned addition.

8. In the result, appeal of the assessed is allowed.”

5. As the facts and circumstances in this appeal are similar to the case of the husband of the assessee, which has been decided by the Tribunal vide order dated 31-7-2015, respectfully following the same, we set aside the order of the CIT(A) and direct the AO to delete the addition of Rs.10,91,919/- made on account of unexplained income in the light of the decision rendered by this Tribunal in the above case.

6. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on this 30/10/2015.

Sd/-

Sd/-

(N.K.BILLAIYA)

(SANJAY GARG)

लेखा सदस्य / ACCOUNTANT MEMBER

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated 30/10/2015

प्र.कु.मि/pkm, नि.स/ PS

आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A), Mumbai.
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार

(Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai