आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.410/PUN/2017
निर्धारण वर्ष / Assessment Year : 2007-08

Satyendra Dhoundujirao Naiknimbalkar,
A/P Yadrav, Tal.-Shirol, Dist.-Kolhapur

PAN : AHXPN2947D

.......अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward – 1, Ichalkaranji

......प्रत्यर्थी / Respondent

Assessee by	:	Shri Nikhil Pathak
Revenue by	:	Shri Abhijit Haldar

सुनवाई की तारीख / Date of Hearing	: 18-10-2019
घोषणा की तारीख / Date of Pronouncement	: 24-10-2019

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 13-12-2016 passed by the Commissioner of Income Tax (Appeals)-2, Kolhapur ['CIT(A)'] for assessment year 2007-08.

2. Shri Nikhil Pathak, the ld. AR submits that the assessee has no interest to prosecute ground Nos. 3 and 4 and prayed to dismiss the same as not pressed. Accordingly, ground Nos. 3 and 4 are dismissed as not pressed.

3. Regarding ground Nos. 1 and 2, Shri Nikhil Pathak, the ld. AR submits that the limited issue in setting off interest income of three family members of assessee may be considered in the facts and circumstances of the case.

4. Heard both parties and perused the materials available on record. The assessee owns agricultural land to an extent of 52 acres along with Shivpriya Naiknimbalkar, Satyapriya Naiknimbalkar and Rajnanda Rajeshirke at Mouje Yadrav. The assessee along with above said three persons *hereafter called as sellers* proposed to sell agricultural land to three persons i.e. Jayawant Laikar, Ajit Laykar and Ranjeet Laykar *hereafter called as purchasers* for a total consideration of Rs.51,00,000/- and the assessee received an amount of Rs.31,00,000/- in A.Y. 2001-02 and further, a sum of Rs.5,00,000/- in A.Y. 2005-06 in cash. The said transactions could not go through and the assessee paid a sum of Rs.52,33,437/- to the Patsanstha on behalf of the three purchasers Jayawant Laikar, Ajit Laykar and Ranjeet Laykar. The Assessing Officer of said three purchasers added said amount in their hands u/sec 69A of the Act and the same was confirmed by the CIT(A). The ITAT, Pune Benches in ITA Nos. 1154 to 1157/PN/2016 vide its consolidated order dated 28-10-2016 deleted the additions made in the hands of the said three purchasers Jayawant Laikar, Ajit Laykar and Ranjeet Laykar on the basis of statements said to have been made by the assessee u/s. 131 of the Act.

5. It is noted that the Assessing Officer of assessee also made addition for the above said amount of Rs.52,33,437/- in the hands of assessee on protective basis. The CIT(A) gave relief to an extent of Rs.35,24,610/- (Rs.31,00,000/- + interest of Rs.4,24,610/-) and directed the Assessing Officer to assess Rs.17,08,827/- in the hands of assessee.

6. The contention of Shri Nikhil Pathak, the ld. AR is that that the two lower authorities below accepted the statement of assessee recorded u/s. 131 of the Act that the amount received from the three purchasers were advanced to other farmers for interest and the assessee and his co-owners earned interest to an extent of Rs.4,24,610/- each, but, the CIT(A) has given relief only to the extent of assessee but not to others. We find the copy of acknowledgment of filing returns of income is placed on record from pages 36 to 43, wherein we find at page No. 38 Shivpriyadevi Dhondojirao Naiknimbalkar, mother of assessee accounted Rs.4,24,610/- as total income and paid taxes on the said amount. At page No. 40 wherein we find Rajnanda Rajeshivh Rajeshirke, the sister of assessee recognized the same amount as total income in her return of income. In the same way at page No. 42 we find Satyapriyadevi Raghujiraje Bhosale, the sister of assessee also recognized the said amount as her total income. The said evidences of filing returns of income accounting the interest income as their total income by the three family members of assessee has not disputed by Shri Abhijit Haldar, the ld. DR but opposed to the an extent that Rs.31,00,000/- is to be divided and the returns of income of all above were filed in 2010 and the assessee failed to prove nexus.

7. As discussed above, the contention of ld. AR is that the relief claimed before this Tribunal is to the extent of set off of interest income earned by the above three family members of the assessee to the an extent of Rs.12,73,830/- (Rs.4,24,610/- x 3). By taking into consideration the facts and circumstances of the case and the discussion made by us here-in-above, in our opinion that the assessee is entitled to claim benefit of the interest of income earned by the other three of his family members to an extent of Shivpriya Naiknimbalkar, Satyapriya Naiknimbalkar and Rajnanda Rajeshirke and therefore, the addition is restricted to

Rs.4,34,997/- (Rs.17,08,827 - Rs.12,73,830/-). Thus, the ground Nos. 1 and 2 raised by the assessee are partly allowed.

8. In the result, the appeal of assessee is partly allowed.

Order pronounced in the open court on 24th October, 2019.

Sd/-	Sd/-
(Anil Chaturvedi)	(S.S. Viswanethra Ravi)
ACCOUNTANT MEMBER	JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 24th October, 2019
RK/GCVSR

<u>आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :</u>

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(A)-2, Kolhapur
4. The Pr. CIT-2, Kolhapur
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary,
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune