

IN THE INCOME TAX APPELLATE TRIBUNAL
SMC BENCH, PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. /ITA No.377/PUN/2022

निर्धारण वर्ष / Assessment Year : 2017-18

Mrs. Usha Narayan Chaware, Legal heir of Late Narayan Dattatraya Chaware, Flat No.2, Sathe Apartments, 401, Shaniwar Peth, Kaksaheb Gadgil Road, Pune 411 030, Maharashtra PAN : ABUPC2604B	Vs.	ITO, Ward-4(5), Pune
Appellant		Respondent

Assessee by
Revenue by

Shri Sunil Ganoo
Shri Ramnath P. Murkunde

Date of hearing 24-02-2023
Date of pronouncement 24-02-2023

आदेश / ORDER

PER R.S. SYAL, VP:

This appeal by the assessee arises out of the order dated 15-12-2021 passed by the CIT(A) in National Faceless Appeal Centre, Delhi in relation to the assessment year 2017-18.

2. The appeal is time barred by 94 days. The assessee has filed a condonaton petition explaining the reasons. I am satisfied with the reasons so stated. The delay is, therefore, condoned and the appeal is admitted for disposal on merits.

3. The only issue raised in this appeal is against the confirmation of addition of Rs.17.00 lakh made by the Assessing Officer (AO) towards cash deposited by the assessee in his bank account during demonetization period.

4. Briefly stated, the facts of the case are that the assessee, before his death, was a retired Government servant at the material time. During the course of assessment proceedings, the AO observed that the assessee deposited cash of Rs.17.00 lakh in his bank account on different dates during the demonetization period. On being called upon to explain the source, the assessee submitted that he along with his brother, Shri Vilas Dattatraya Chaware, sold certain agricultural land for a sum of Rs.38.00 lakh on 12-04-2013. The assessee's share in such sale consideration was Rs.19.00 lakh. It was stated that the cash was kept with his brother for purchase of another property in the nearby vicinity, but the transaction of new purchase could not materialize. The AO called upon the assessee to furnish details of his monthly expenses which was duly furnished along with source thereof. The AO refused to accept the source of cash deposit of Rs.17.00 lakh in bank account during demonetization period on the ground that the agricultural land was sold in 2013 and the cash was deposited in 2016. He, therefore, made the addition of the said sum

u/s.69A r.w.s.115BBE of the Act. No relief was allowed by the CIT(A), against which the assessee has approached the Tribunal.

5. Having heard both the sides and gone through the relevant material on record, it is found as an admitted position that the assessee did sell its ancestral agricultural land in the year 2013 for a sum of Rs.38.00 lakh along with his brother. The assessee's share in such sale consideration was Rs.19.00 lakh. The assessee submitted before the AO that his share of cash of Rs.19.00 lakh was kept with his brother who was looking after the agricultural operations previously and both of them decided to purchase a new agricultural land in their joint name. Unfortunately, the brother passed away in the month of June, 2016 and his sister in law handed over his share of cash in the months of August and September, 2016, which was deposited in the bank account during November, 2016. The fact that the assessee along with his brother sold agricultural land for a sum of Rs.38.00 lakh has not been denied by the AO. Once the availability of cash in hands was established and it was not shown by the AO that such cash was spent elsewhere, I am of the considered opinion that the explanation of the assessee as to its utilization has to be accepted. Further, the assessee also explained his monthly domestic expenses

and also the sources thereof, which was also disputed by the AO. I, therefore, order to delete the addition.

6. In the result, the appeal is allowed.

Order pronounced in the Open Court on 24th February, 2023.

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 24th February, 2023
Satish

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The Pr. CIT concerned
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण,
SMC, Pune / DR, ITAT, Pune
5. गार्ड फाईल / Guard file

आदेशानुसार/ BY ORDER,

// True Copy //

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

		Date	
1.	Draft dictated on	24-02-2023	Sr.PS
2.	Draft placed before author	24-02-2023	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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