

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "H", MUMBAI**

**BEFORE SHRI D.T. GARASIA, JUDICIAL MEMBER AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

**ITA No.3347/M/2016
Assessment Year: 2009-10**

Shri Mayur R. Joshi, B/16, Sai Baba Dham, Sai Baba Ngr. SV. Road, Borivali (W), Mumbai – 400 092 PAN: AFCPJ 4545C	Vs.	Income Tax Officer-32(2)(3), Mumbai - 400020
(Appellant)		(Respondent)

Present for:

Assessee by : Shri S.C. Tiwari, A.R. & Ms. Rutuja N. Pawar, A.R.
Revenue by : Shri M.C. Omi Ningshen, D.R.

Date of Hearing : 11.04.2017
Date of Pronouncement : 12.05.2017

ORDER

Per D.T. Garasia, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 10.03.2016 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2009-10.

2. The short facts of the case are that the Assessing Officer (hereinafter referred to as the AO) found that there are unexplained cash credits in two bank Account Nos.018010100501576 and 018010100359450 with Axis Bank and added Rs.55,37,660/- to income of the assessee as the assessee could not produce the source of this cash deposits with Axis Bank. The matter went up to Tribunal and the Tribunal has directed the AO to re-examine the same. The assessee was directed to produce the cash book, bank statement and list of non deposit withdrawals but assessee did not avail the opportunity. Therefore, after going through the record, the AO made the addition.

3. The matter carried to Ld. CIT(A) and the Ld. CIT(A) has dismissed the appeal of the assessee.
4. During the course of hearing, the Ld. A.R. submitted before us that the assessee was not able to produce the bank statement. The bank statement is produced for the first time, therefore, it requires verification at the stage of AO and matter may be decided afresh.
5. The Ld. D.R. has no objection, if the matter is restored to AO.
6. Having heard both the parties, we find that during the course of hearing Ld. A.R. has produced the statement of Axis bank from 01.04.08 to 31.03.09 wherein all the entries relating to assessee have been reflected. Therefore, we reverse the finding of Ld. CIT(A) and restore this matter back to the file of the AO to verify the bank statement, cash book, daily cash summary and list of non deposits of withdrawals and decide the matter afresh after giving due opportunity of hearing.
7. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 12.05.2017.

Sd/-
(Manoj Kumar Aggarwal)
ACCOUNTANT MEMBER

Sd/-
(D.T. Garasia)
JUDICIAL MEMBER

Mumbai, Dated: 12.05.2017.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.