

**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH: KOLKATA**  
[Before Shri Mahavir Singh, JM]

**I.T.A Nos.1978 & 1979/Kol/2013**  
**Assessment Years: 2004-05 & 2005-06**

Santanu Som  
(PAN: ALXPS9636E)  
(Appellant)

Vs. Income-tax Officer, Wd-12(4), Kolkata  
  
(Respondent)

Date of hearing: 09.12.2015  
Date of pronouncement: 16.12.2015

For the Appellant: Shri S. K. Dasgupta  
For the Respondent: Shri Rajendra Prasad, JCIT, Sr. DR

Both these appeals by assessee are arising out of separate orders of CIT(A)-XII, Kolkata in Appeal Nos.26 & 275/CIT(A)-XII/12(4)/08-09 dated 22.03.2013. Assessments were framed by ITO, Ward-12(4), Kolkata, u/s. 147 r.w.s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as the “Act”) for AYs 2004-05 & 2005-06 vide its order dated 08.12.2008.

2. The first common issue in these two appeals of assessee is against the order of CIT(A) confirming the addition of cash credit deposited in undisclosed bank account amounting to Rs.2,96,721/- in AY 2004-05 and Rs.1,00,161/- in AY 2005-06. For this, assessee has raised identically worded ground and the ground no.2 as raised in AY 2004-05 reads as under:

*“2. For that the Additions against credits in the alleged undisclosed Bank account amounting to Rs.2,96,721/- (for AY 2004-05) and Rs.1,00,161/- (for AY 2005-06) was the result of pre-conceived mind of the Assessing Officer and the Learned Commissioner of Income Tax (Appeals)-XII, Kolkata, coupled with not understanding intentionally the nature of credits in the Bank Statements even after explaining the same and sources of receipts. Hence the assessment made thus proves arbitrary in nature and bad in law which leads to deletion altogether.”*

Since facts and circumstances are exactly identical in both the years, I will take the fact from AY 2004-05 and decide the issue.

3. Briefly stated facts are that the AO noticed from the assessee’s savings bank account No. 034010100010316 maintained with Axis Bank, Behala Branch that there is total amount credited during the year under consideration at Rs.2,96,721/-. The assessee claimed that the deposits were related to reimbursement of Mediclaim, amount received from father from time to time deposited with the bank, the credit of salary cheques and maturity of fixed deposits and also maturity of KVP. According to assessee, these are not unexplained amount, hence the same should not be added but the AO was not convinced with the explanation of the assessee and he made addition of amounts of Rs.2,96,721/-. Aggrieved, assessee preferred appeal before CIT(A) who also confirmed the action of AO. Aggrieved, assessee is in second appeal before ITAT.

4. I have heard rival submissions and gone through facts and circumstances of the case. I find from the details filed before me, which were also filed before AO as well as before CIT(A) that these amounts are receipts of savings, small gifts, salary deposit, KVP maturity etc. The details are as under:

Sl. No.	Nature of deposits	(AY 2004-05) Amount (Rs.)
1.	Gifts received from father Mr. Gouri Shankar Som, which was deposited with the bank .	21,250/-
2.	Gifts received from mother Mrs. Shafali Shankar Som, which were deposited with the bank.	17,750/-
3.	Gifts received from wife Mrs. Mouha som, which were deposited with the bank.	300/-
4.	Surplus deposited out of withdrawal through (ATM) of same A/c.	5,000/-
5.	Reimbursement of Medical expenses	1,15,000/-
6.	Gifts received from friends	768/-
7.	FD maturity value (Principal amount plus interest)	84,493/-
8.	Salary deposited	52,000/-
9.	Bank interest credited	160/-
		2,96,721/-

Sl. No.	Nature of deposits	(AY 2005-06) Amount (Rs.)
1.	Gifts received from mother Mrs. Shafali Shankar Som, which were deposited with the bank.	6,000/-
2.	Gifts received from friends	3,358/-
3.	KVP maturity value (Principal amount plus interest)	60,699/-
4.	Salary deposited	30,000/-
5.	Bank interest credited	104/-
		1,00,161/-

5. The assessee has filed complete details and evidences in respect to these amounts before me which are enclosed in assessee's paper book. When these evidences were confronted to Ld. Sr. DR, he only requested for setting aside this issue to the file of the AO but could not controvert the evidences. I find from the facts and circumstances of the case that these are

explained amounts and in no way this can be treated as unexplained. Accordingly, in both the years I delete the addition and allow this common issue of assessee's appeals.

6. The next common issue in these two appeals of assessee is against the order of CIT(A) confirming the addition made by AO on account of withdrawal for expenditure from cash credit account maintained with Bank of Maharashtra amounting to Rs.8,20,692/- for AY 2004-05 and Rs.6,05,975/- for AY 2005-06. For this, assessee has raised identically worded ground and the ground no.3 as raised in AY 2004-05 reads as under:

*“3. For that the withdrawals aggregating Rs.8,20,692/-, (for AY 2004-05) and Rs.6,05,975/- (for AY 2005-06), for business expenditure from cash credit account with Bank of Maharashtra, Rash Behari Avenue Branch with Bank Drafts were made towards the payment for the aforesaid business expenditure is altogether arbitrary, illegal and without assigning any valid reasons inspite of producing the books of account of the company and also ignoring the copies of the Bank drafts produced and audited accounts.*

Since facts and circumstances are exactly identical in both the years, I will take the fact from AY 2004-05 and decide the issue.

7. Briefly stated facts are that the AO noticed from the withdrawals made from Bank of Maharashtra, Rash Behari Avenue Branch of Somnet Dynagraphics Pvt. Ltd., that the assessee being a director has made various withdrawals and according to AO, these are for personal benefit of the assessee but not for the expenditure of the assessee company. Before CIT(A), the assessee filed the same details which were filed before AO and CIT(A) after seeking remand report from the AO, dismissed the ground raised by assessee by observing as under:

*“I have considered the finding of the AO in the assessment order and the remand report and submission filed by the A.R during the appellate proceeding. I find that the A.R/assessee has failed to produce details/documents regarding expenses claimed before the AO both in assessment proceeding and in remand proceeding. Therefore, assessee's claim on this issue has no evidence. Accordingly, assessee's appeal on ground no.3 is dismissed.”*

8. I find from the details filed before me regarding expenses claimed by the assessee after making withdrawal from the bank account of Bank of Maharashtra, Rash Behari Avenue Branch of Somnet Dynagraphics Pvt. Ltd., and these withdrawals were actually made for the expenses of the said company. The details filed by assessee (for AY 2004-05 in ITA No. 1978/K/2013) are, (i) amounts withdrawn for making demand drafts in favour of Vijex Enterprises, New Delhi for Tonner and other spares of xerox machines on stated dates Rs.3,31,800/-, ii) Amounts withdrawn for making demand drafts in favour of J. M. Enterprises, New Delhi for tonner and other spares of Xerox machines on stated dates Rs.24,905/-, (iii) A/c. Travelling, boarding, lodging and business promotion on various dates by way of payment of credit cards of Directors and Marketing expenses Rs.60,000/-, (iv) A/c. partly for consumable purchase and partly for office

expenses Rs.1,550/-, (v) A/c. consumable purchases Rs.24,890/-, (vi) A/c. office expenses Rs.2,000/-, (vii) Amounts withdrawn for making demand draft in favour of Taneja Toners (P) Ltd. New Delhi for supply of toner Rs.800/-, (viii) amounts withdrawn for making demand draft in favour of MIG Engineers Pvt. Ltd., New Delhi for supply of toner Rs.39,308/-, (ix) ) amounts withdrawn for making demand draft in favour of Taneja Photostate House, New Delhi for supply of toner Rs.630/-, (x) amounts withdrawn for making demand draft in favour of Kailash Virmani, New Delhi for supply of toner Rs.1,88,420/-, (xi) Cheque issued in favour of Oriental Enterprises Rs. 7,500/-, (xii) Cash withdrawal for various dates and printing & stationery charges Rs.1,05,550/-, (xiii) Service tax with interest Rs.30,174/- and (xiv) Bank charges Rs. 3,165/- totaling to Rs.8,20,692/-. The assessee has filed complete evidences including bills and vouchers and bank statement for these expenses correlating with the withdrawals. Accordingly, I am of the view that these are allowable expenses in the case of the company and in any way, it cannot be attributed to be the income of the assessee as assessee has spent these amounts only on behalf of company. Accordingly, I delete the addition and allow this issue of assessee's appeal. Similar are the facts in AY 2005-06, hence taking a consistent view, I delete the addition in this year also.

9. In the result, both the appeals of assessee are allowed.

10. Order is pronounced in the open court on 16.12.2015

Sd/-  
(Mahavir Singh)  
Judicial Member

Dated : 16<sup>th</sup> December, 2015

Jd. Sr. P.S

Copy of the order forwarded to:

1. APPELLANT – Shri Santanu Som, C/o, M/s. Somnetdynagraphics (P) Ltd., B-9A & 9B, IE Building, WEBEL Electronic Complex, P-1, Taratala Road, Kolkata-700 088. .
- 2 Respondent – ITO, Ward-12(4), Kolkata.
3. The CIT(A), Kolkata
4. CIT Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy,

By order,

Asstt. Registrar.