

IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA
[Before Shri Mahavir Singh, JM & Shri Waseem Ahmed, AM]

I.T.A No.606/Kol/2013
Assessment Year: 2008-09

Hari Narayan Agarwal & Sons (HUF)
(PAN: AABHH6745Q)
(Appellant)

Vs. Income-tax Officer, Wd-2(1), Asansol
(Respondent)

Date of hearing: 29.01.2016

Date of pronouncement: 29.01.2016

For the Appellant: N o n e

For the Respondent: Shri R. P. Nag, JCIT, Sr. DR

ORDER

Per Shri Mahavir Singh, JM:

This appeal by assessee is arising out of order of CIT(A), Asansol vide Appeal No. 120/CIT(A)/Asl/W-2(1)/Asl/08-09 dated 24.01.2013. Assessment was framed by ITO, Ward-2(1), Asansol u/s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as “the Act”) for Assessment Year 2008-09 vide his order dated 03.12.2008.

2. The only issue in this appeal of assessee is against the order of CIT(A) confirming the action of AO in making addition of unexplained cash credit u/s. 68 of the Act amounting to Rs.7,19,318/-

3. We have heard Ld. Sr. DR and gone through facts and circumstances of the case. Briefly stated facts are that the AO made addition of unexplained cash deposits in the bank account amounting to Rs.7,19,318/-. Aggrieved, assessee preferred appeal before CIT(A). Before the lower authorities assessee’s contention was that the cash deposit was made out of sales effected between 01.04.2005 and 18.04.2005 and he has given the details before the AO as well as the CIT(A) and the relevant details are reproduced in the order of CIT(A) at page 4 wherein the total sales is to the tune of Rs.7,39,593/-. As against this, the assessee has made deposit at Rs.7,30,000/-. The assessee has also made cash withdrawal from partnership firm M/s. Anand Construction, which is also reflected in the statement given to CIT(A). We find that the CIT(A) has not gone into the details of sale and purchase as well as cash withdrawals from partnership firm M/s. Anand Construction and passed a cryptic order by observing in para 12 as under:

“12. On the face of facts and circumstance of the case I hold that the transactions including my observation and the observation of the Assessing Officer, all mentioned in the preceding

paragraphs 7 to 11, I concur with the decision of the AO, the assessee on the other hand is clinging to the last line of the extract of report of Assessing Officer mentioned in paragraph 10. This has been considered by me in paragraph 11 and is of no support to the assessee in the facts and circumstances of the case. I uphold his decision to make enhancement of income to the tune of Rs.7,19,318/-. This ground is accordingly rejected.”

4. In terms of the above, we feel that the issue should be examined in the light of explanation filed before the AO as well as the CIT(A) and particularly before CIT(A) it is reproduced at pages 3 and 4 at para 9. In term of the above, we set aside the orders of the lower authorities and restore this issue to the file of AO for fresh adjudication. Accordingly, this issue is set aside to the file of the AO. Appeal of assessee is allowed for statistical purposes.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court.

Sd/
(Waseem Ahmed)
Accountant Member

Sd/-
(Mahavir Singh)
Judicial Member

Dated : 29th January, 2016

Jd. Sr. P.S

Copy of the order forwarded to:

1. Appellant – Shri Hari Narayan Agarwal & Sons, (HUF) Rajasthan Road, Narsinghbandh.
2. Respondent – ITO, Wd-2(1), Kolkata.
3. CIT(A) , Kolkata
4. CIT , Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy,

By order,

Asstt. Registrar.