

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

I.T.A No.1370/Kol/2015
Assessment Year: 2010-11

Amit Kumar Saha
(PAN: AKAPS5745C)
(Appellant)

Vs. Assistant Commissioner of Income-tax,
Circle-1, Hooghly.
(Respondent)

Date of hearing: 22.02.2016
Date of pronouncement: 22.02.2016

For the Appellant: Shri Somnath Ghosh, Advocate
For the Respondent: Shri Rajat Kumar Kureel, JCIT, Sr. DR

ORDER

This appeal by assessee is arising out of order of CIT(A)-6, Kolkata vide Appeal No. 122/CIT(A)-6/Kol/Cir-23/Hg/13-14 dated 11.09.2015. Assessment was framed by ACIT, Circle-1, Hooghly u/s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for Assessment Year 2010-11 vide his order dated 31.03.2013.

2. The first issue in this appeal of assessee is against the order of CIT(A) confirming the action of AO in making addition u/s. 68 of the Act being unexplained cash credit amounting to Rs.1,05,411/-.

3. Briefly stated facts are that the assessee has received a gift of Rs.1,05,411/- from his uncle Shri Bijoy Saha, who is NRI. This fact was noticed by AO from the audited Balance Sheet as at 31.03.2010. During the course of assessment proceedings the assessee produced confirmation from the donor and details regarding receipt of money including bank account. The assessee’s uncle Shri Bijoy Saha gifted this amount through money transfer and this fact is noted by AO in his assessment order and CIT(A) confirmed the action of the AO only on the basis of creditworthiness of the donor is not proved. I find from the case records that Shri Bijoy Saha, who is NRI residing in France from last forty years has made a gift of 4000 Euro i.e. equivalent to an amount of Rs.1,05,400/-. This being a petty amount and in the given facts and circumstances of the case, I am of the view that the gift is a genuine and hence, this addition is deleted. This issue of assessee’s appeal is allowed.

4. The next issue in this appeal of assessee is against the order of CIT(A) confirming the action of AO in making addition of ad hoc estimation of Rs.1 lac.

5. Briefly stated facts are that the assessee is a trader of cement and has shown income from cement business at Rs.7,50,236/-. The assessee filed complete details of purchase and sales but

according to AO, the sales are not fully verifiable but no reason was adduced. Accordingly, he estimated the ad hoc addition of Rs. 1 lac by observing in para 6 as under:

“6. The assessee is a trader of cement. The assessee has shown income from cement business at Rs.7,50,236/-. The assessee filed details of purchases, sales etc. However, the details of sales being retail in nature are not fully verifiable only on the basis of bills available to the assessee. Day to day receipt out of trading business is not evidenced by cash memos fully. In such circumstances, an ad hoc trading addition in the sum of Rs.1,00,000/- is made on estimate basis to the said income.”

The CIT(A) confirmed the action of AO exactly on same reasoning. Aggrieved, assessee is in appeal before Tribunal.

6. I find from the facts and arguments of Ld. Counsel for the assessee that the AO has made this addition without any basis. On one hand he says that complete particulars of sales and purchases are produced and despite that he estimated this addition. In such circumstances, this addition cannot be sustained and hence, the same is deleted. This issue of assessee's appeal is allowed.

7. In the result, appeal of assessee is allowed.

Order pronounced in the open court on 22.02.2016

Sd/-
(Mahavir Singh)
Judicial Member

Dated : 22nd February, 2016

Jd. Sr. P.S

Copy of the order forwarded to:

1. Appellant – Shri Amit Kumar Saha, C/o S. N. Ghosh & Associates, Advocates, “Seven Brothers” Lodge, P.O. Buroshibtala, P.S. Chinsurah, Dist. Hooghly, Pin-712 105.
2. Respondent – ACIT, Cir-1, Hooghly.
3. CIT(A) , Kolkata
4. CIT , Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy,

By order,

Asstt. Registrar.