

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH " C "**

**BEFORE SHRI A.K. GARODIA, ACCOUNTANT MEMBER AND
SHRI VIJAY PAL RAO, JUDICIAL MEMBER**

I.T.A. No.1317/Bang/2010 (Assessment Year : 2009-10)		
Smt. M.R. Ashalatha, No.477, 11 th Cross, Upper Palace Orchards, Bengaluru-560 080 PAN ABTPA 3673 M	Vs.	Income Tax Officer, Ward 9(2), Bengaluru.
Appellant		Respondent.

Appellant By : Shri H.N.Khincha, C.A. Respondent By : Shri Sumer Singh Meena, Addl. CIT (D.R)
--

Date of Hearing : 06.10.2016.

Date of Pronouncement : 19.10.2016.

O R D E R

Per Shri Vijay Pal Rao, J.M. :

This appeal by the assessee is directed against the order dt.18.5.2016 of Commissioner of Income Tax (Appeals), Bangalore-6 for the Assessment Year 2009-10.

2. The assessee has raised the following grounds :

1. The Assessing Officer had erred in taxing a sum of Rs. 16,04,000/- as unexplained cash deposits in bank and the learned Commissioner of Income tax (Appeals) has erred in confirming the same. The addition as made/sustained being contrary to facts and evidence available is to be deleted.
 2. In any case, the addition as made relying upon AIR information being bad in law and is liable to be deleted.
 3. In any case the authorities below have erred in not properly appreciating the facts and the evidence available. On proper appreciation of evidence and facts of the case it will clear that there are no unexplained cash deposits in the bank and therefore the entire addition as made/sustained requires to be deleted.
 4. In view of the above and on other grounds to be adduced at the time of hearing, it is requested that the impugned order be quashed or at least the addition sustained be deleted.
3. The only issue arises for our consideration and adjudication is regarding addition made on account of cash deposit in the Bank of Rs.16,04,000.
4. The assessee is an individual and deriving income from house property and bank interest. In the scrutiny assessment, the Assessing Officer noted that there are cash deposits in the bank account of assessee with UCO Bank to the tune of Rs.16,04,000. The Assessing Officer made the addition on the basis of AIR information in respect of the cash deposits being unexplained cash deposit. The assessee challenged the action of the Assessing Officer before the CIT (Appeals) but could not succeed.

5. Before us, the Id. AR of the assessee has submitted that the CIT (Appeals) has not given the credit of withdrawal of Rs.12,85,000 by the assessee as source of the subsequent deposit. He has further submitted that the assessee could not produce the cash book before the authorities below and therefore one more opportunity may be given to the assessee to produce the relevant evidence in support of the source of the deposits in the Bank.

6. On the other hand, the Id. DR has relied upon the orders of the authorities below and submitted that the assessee has failed to substantiate its claim with supporting evidence.

7. Having considered the rival submissions and relevant material on record, we note that the Assessing Officer as well as the CIT (Appeals) has disallowed the claim of the assessee on the ground that the assessee has not produced any evidence in support of her explanation of the source being withdrawal for subsequent deposit in the Bank. The CIT (Appeals) has given his finding in paras 7 to 9 are as under :

7. However it is also intriguing to observe that withdrawals of Rs. 12,85,000/- as shown by appellant in her written submissions were made during the period 05/04/2008 to 22/05/2008 whereas deposits made were from 18/06/2008 to 19/03/2009. It is not understandable why a person should withdraw cash from her savings / current account and keep cash at home and have the same cash redeposited in the bank during a period spanning 11 months. No explanation has been offered as to why cash was withdrawn. No reason has been offered as to why suddenly a sum of Rs. 10.80 lakh was deposited on 01/09/2009 whereas deposits on other days were below Rs. 1lakh.

8. Perusal of details show that the appellant has failed to substantiate deposits made in her bank account with evidences to support her contention that withdrawals corresponded to deposits. On the contrary no material evidence has been filed to proof that deposits were made from withdrawals. Neither has any reason been offered as to why huge cash was kept after withdrawal.

9. Therefore in view of the facts brought out above, since the appellant has no explanation with regard to cash deposits made in her bank, the assessment order is hereby sustained and upheld.

It is clear from the finding of the CIT (Appeals) that the withdrawal of Rs.12,85,000 was not in dispute however the source to the extent of the said withdrawal was not accepted for want of supporting evidence. Since the Id. AR of the assessee has submitted that the assessee may be given one more opportunity to produce the cash book and other relevant records in support of

the claim therefore in the facts and circumstances of the case and in the interest of justice, we set aside the matter to the record of the Assessing Officer to reconsider this issue after verification of the relevant record to be produced by assessee.

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

Order pronounced in the open court on 19th Oct., 2016.

Sd/-
(A.K. GARODIA)
Accountant Member

Sd/-
(VIJAY PAL RAO)
Judicial Member

Bangalore,
Dt.19.10.2016.

*Reddy gp

Copy to :

1. Appellant
2. Respondent
3. C.I.T.
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard File.

By Order

Asst. Registrar, ITAT, Bangalore