

आयकर अपीलीय अधिकरण, इन्दौर न्यायपीठ, इन्दौर
IN THE INCOME TAX APPELLATE TRIBUNAL,
INDORE BENCH, INDORE

BEFORE SHRI C.M. GARG, JUDICIAL MEMBER
AND SHRI O.P. MEENA, ACCOUNTANT MEMBER

आ.अ.सं./I.T.A. No. 188/Ind/2016

निर्धारण वर्ष /Assessment Year: 2002-03

Dr. Ashok Sharma

Indore

PAN – AGTPS – 5739F

:: अपीलार्थी /Appellant

Vs

Income Tax Officer 1(1)

Indore

:: प्रत्यर्थी /Respondent

निर्धारिती की ओर से/Assessee by	Shri S.T. Jethani
राजस्व की ओर से/Revenue by	Shri Mohd. Javed - DR
सुनवाई की तारीख Date of hearing	4.5.2017
उद्घोषणा की तारीख Date of pronouncement	9.5.2017

आदेश /O R D E R

PER SHRI C.M. GARG, JM

This appeal has been filed by the assessee against the order of the learned CIT(A)-32, New Delhi, having concurrent jurisdiction over CIT(A)-II, Indore, dated 20.1.2016 in First Appeal No. IT-292/15-16/181 for the assessment year 2002-03.

2. At the time of hearing, the learned counsel for the assessee did not press ground no. 1. The same is, therefore, dismissed as such.

3. Ground no. 2 is that the credits to the saving bank account, in cash, deposits amounting to Rs.77,500/- have been added to the total income of the assessee by the authorities below against the facts of the case.

4. Briefly stated, the assessee derives income from salary from the State Government. A notice u/s 148 of the Act was issued. However, the assessee did not file any return in response thereto. The Assessing Officer issued notice u/s 142(1) of the Act in response to which the assessee filed written submissions without filing the return in response to notice u/s 148 of the Act. The Assessing Officer, therefore, passed ex-parte assessment order u/s 144 of the Act. In the assessment order total deposits of Rs.2,24,500/- in respect of S.B. Account No. 1190010152 have been added. It includes some cheques/transfers/deposits as well, the details of which are given at page 3 of the assessment order. It was the submission of the assessee before the Assessing Officer that the cash deposits were only to the extent of Rs.77,500/- which

are out of withdrawals from another bank account. However, the Assessing Officer did not accept this contention of the assessee. The Assessing Officer, therefore, made the addition of Rs.2,24,500/- On appeal, the Commissioner of Income Tax (Appeals) after considering the issue, restricted the addition of Rs. 2,24,500/- to Rs.77,500/- i.e. the Commissioner of Income Tax (Appeals) maintained the addition of Rs. 77,500/- towards deposits out of withdrawals. Against this action of the Commissioner of Income Tax (Appeals), the assessee is in appeal before us.

5. We have heard both the sides. Before us, the learned counsel for the assessee filed an affidavit sworn in by the assessee to the effect that the assessee was getting salary from the Department of Health and Family Welfare and during the relevant period he was posted at Bhopal. The said salary was deposited by the assessee in his bank account and since the family of the assessee was residing at Indore, he used to withdraw cash from his salary account at Bhopal and out of the cash withdrawal, he used to deposit the said cash into savings bank account with State Bank of Indore, MYH Campus Branch, Indore. The learned counsel for the assessee,

therefore, submitted that whatever cash was deposited, it was out of the withdrawal from the assessee's bank account being maintained at Bhopal. These facts mentioned in the affidavit of the assessee have not been controverted by the learned DR.

6. We have considered the submissions of both the sides. From the affidavit filed by the assessee before us it is apparent that whatever cash was deposited in the bank account at Indore was withdrawn by the assessee from his bank account being maintained at Bhopal. The contents of the said affidavit have not been controverted by the learned DR. We, therefore, direct the Assessing Officer to delete the addition of Rs.77,500/- towards cash deposits.

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

The order has been pronounced in open Court on 9th May, 2017.

Sd/-

लेखा सदस्य
(O.P.Meena)
Accountant Member
May 9, 2017.

sd/-

न्यायिक सदस्य
(C.M. Garg)
Judicial Member

Dn/

Dr. Ashok Sharma
ITA No. 188/Ind/2016