

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH : KOLKATA

[Before Hon’ble Shri N.V. Vasudevan, JM & Shri M.Balaganesh, AM]

I.T.A No. 852/Kol/2016

Assessment Year : 2009-10

Bhaskar Sen
[PAN: ABDPS 7579 L]
(Appellant)

-vs-

ITO, Ward-16(4), Kolkata

(Respondent)

For the Appellant : Shri K.M. Roy

For the Respondent : Shri Kalyan Nath, Addl. CIT

Date of Hearing : 18.08.2017

Date of Pronouncement : 20.09.2017

ORDER

Per M.Balaganesh, AM

1. This appeal by the Assessee arises out of the order of the Learned Commissioner of Income Tax (Appeals) -XIV, Kolkata [in short the Id CITA] in Appeal No. 979/CIT(A)-XIV/2011-12 dated 11.03.2014 against the order passed by the ITO, Ward-16(4), Kolkata [in short the Id AO] under section 143(3) of the Income Tax Act, 1961 (in short “the Act”) dated 26.12.2011 for the Assessment Year 2009-10.

2. The assessee has raised the following grounds of appeal:

1. That the learned CIT(A) is not justified in sustaining addition of unexplained Cash deposit of Rs. 17,55,000/- without correlating from corresponding Cash withdrawals.

2. *That the learned CIT(A) is not justified in confirming addition of unexplained expenditure of Rs. 9,70,975/-.*
3. *That the learned CIT(A) is not justified in sustaining disallowances of exemption of Rs. 19,56,800/- as per the Tax Deduction Certificate issued by Employer.*
4. *That the appellant craves leave to add, alter, amend all or any of the Grounds of appeal.*

3. The brief facts of this issue is that the assessee filed its return of income for the assessment year 2009-10 on 09.03.2010 declaring total income of Rs. 3,32,930/-. The assessee is a director of M/s B.C.C.Shipping & Ship Building Ltd. (in short BCCSSBL) and had received salary income from the said company. The assessee claimed exemption for an amount of Rs. 19,56,800/- u/s 10 of the Act in Form no. 16 filed along with return of income. The Ld. AO observed that pursuant to AIR information reflecting cash deposits of Rs. 17,55,000/- during the previous year 2008-09 in the saving bank account no. 045010100183116 maintained by the assessee with Axis Bank, Tollygunge Branch, he sought to seek explanation from the assessee regarding the source of these cash deposits. In response to the same, the assessee produced photocopies of bank statement in respect of bank account no. 045010200012591 maintained with Axis Bank, Tollygunje Branch, Kolkata in the name of M/s BCCSSBL, the employer of the assessee. The assessee stated that the cash was withdrawn from this bank account on various dates and deposited in the bank account maintained by the assessee. The Ld. AO further observed that the explanation given by the assessee was not satisfactory and hence, resorted to make an addition towards cash deposits in the sum of Rs. 17,55,000/- as unexplained cash credit in the assessment.

4. The AIR information further reflected that during the previous year, the assessee had incurred total expenditure amounting to Rs. 9,70,975/- (4,81,099 + 4,49,876) during the previous year 2008-09 through two credit cards. The same was added as unexplained expenditure by the Ld. AO for want of explanation by the assessee.

5. On perusal of Form 16 submitted by the assessee, the Ld. AO observed that the assessee had claimed exemption u/s 10 of the Act for an amount of Rs. 19,56,800/- under the head "reimbursement of office expenses". For want of explanation from the assessee in this regard, the Ld. AO disallowed the exemption claimed by the assessee and brought to tax a sum of Rs. 19,56,800/- in the assessment. This action of the Ld. AO was upheld by the Ld. CIT(A). Aggrieved, the assessee is in appeal before us.

6. The Ld. AR argued that with regard to ground no. 3 on the claim of exemption u/s 10 under reimbursement of office expenses in the sum of Rs. 19,56,800/-, similar issue had cropped up in assessee's own case for the assessment year 2008-09 before this tribunal, wherein this Tribunal had remanded the issue to the file of the Ld. AO and accordingly he prayed for the same direction for this assessment year also. He also stated that there is no need for making any separate addition towards cash deposits of Rs. 17,55,000/- as the same was already included in the sum of Rs. 19,56,800/- separately added by the Ld. AO. He also argued that out of total monies available in the bank account the assessee had incurred expenditure to the tune of Rs. 9,70,975/- through credit cards for and on behalf of employer M/s BCCSSBL. He prayed for remanding all these issues to the file of the Ld. AO as they are interconnected. In response to this, the Ld. DR fairly agreed for remanding these issues to the file of the Ld. AO.

7. We have heard the rival submissions. In view of the aforesaid arguments of Ld. AR and Ld. DR, we deem it fit and appropriate, to remand these issues to the file of the Ld. AO for de novo adjudication. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the Court on 20.09.2017

Sd/-
[N.V.Vasudevan]
Judicial Member

Sd/-
[M.Balaganesh]
Accountant Member

Dated : 20.09.2017
SB, Sr. PS

Copy of the order forwarded to:

1. Bhaskar Sen, 16A, Lake View Road, Kolkata-29
2. ITO, Ward-16(4), 169, A.J.C. Bose Road, Kolkata-14
- 3..C.I.T.(A)-XIV, Kolkata 4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

Senior Private Secretary
Head of Office/D.D.O., ITAT, Kolkata Benches