

IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH (SMC), KOLKATA

[Before Hon'ble Shri P.M. Jagtap]

I.T.A. No. 941/Kol/2014
Assessment Year: 2008 -09

Rokia Khatun.....Appellant
C/o P.S. Gupta (Advocate),100 Bank Lane,
Hatar Para, P.O. Krishnagar,
Dist. Nadia
Nadia - 741101
[Pan : AMAPK0898A

ITO, Jangipur Murshidaad.....Respondent
Murshidabad

Appearances by:

Shri K.M. Roy, FCA & Shri P.S. Gupta, Advocate appearing on behalf of the assessee.
None appearing on behalf of the Revenue.

Date of concluding the hearing : July 12, 2017

Date of pronouncing the order : July 14, 2017

ORDER

This appeal filed by the assessee is directed against the order of Ld. CIT(Appeals) - 36, Kolkata dated 27.02.2014 and the solitary issue involved therein relates to the addition of Rs. 9,01,389/- made by the AO and confirmed by the Ld. CIT(A) on account of difference in cash balance.

2. The assessee in the present case is an individual who is engaged in the business of trading of bidi leaves and tobacco. The return of income for the year under consideration was filed by him on 29.09.2008 declaring a total income of Rs. 1,51,638/-. During the course of assessment proceeding, it was noticed by the AO that the cash balance as on 01.04.2007 as per the cash book of the assessee was Rs. 13,83,520/- while the cash balance shown in the balance

sheet of the assessee as on 31.02.2007 was Rs. 4,82,131/-. He, therefore, required the assessee to explain the difference of Rs. 9,01,389/- in the cash balance and since the assessee failed to offer any explanation to the satisfaction of the AO, the amount of difference in cash balance was added to the AO to the total income of the assessee in the assessment completed under section 143(3) vide an order dated 29.12.2010.

3. Against the order passed by under section 143(3), an appeal was preferred by the assessee before the Ld. CIT(A) and the following explanation was offered by the assessee during the course of appellate proceedings during the Ld. CIT to explain the difference in cash balance.

“As a matter of fact the appellant applied for bank loan during the financial year 2006-07 and obtained cash credit loan being A/c No. OD – 10116 from Canara Bank, Kankuria Branch for the smooth running of her business and during the F.Y. 2006-07 she enjoyed cash credit of Rs. 9,11,149.00.

However, while filing her balance sheet and statement of accounts the accountant of the firm who prepared the accounts and filed her income tax return under the guidance of her Tax Advocate did not show the cash-credit account balance of Rs. 9,11,149.00 as on 31.03.2007 in her Income Tax return and in the liabilities side of the balance sheet.

*However, despite all the above said facts of the case, if the balance sheet of the appellant is **recast afresh** by incorporating & adding back the loan sum of Rs. 9,11,149.00 then total sum of Rs. 19,13,369.00 should have been reflected in the liabilities side of the balance sheet and as a result of which the cash balance including cash-in-hand & cash-at-bank should be reflected as **13,83,520.00** as on 31.03.2007 which should be carried over to the subsequent financial year of 2007-08 relevant to the Asst. Yr. 2008-09*

4. In support of the above explanation, a recast balance sheet as on 31.03.2007 was also filed by the assessee. The Ld. CIT(A) however did not accept the explanation of the assessee as regards the difference in cash balance on the ground that it was not fully supported or substantiated by the relevant documentary evidence showing the cash credit availed by the assessee, the date of withdrawals and reasons for withdrawals. He also noted that there was a failure on the part of the assessee to offer the said explanation during the course of assessment proceeding before the AO in spite of adequate opportunity afforded to him. The Ld. CIT(A) accordingly confirmed the addition of Rs. 9,01,389/- made by the AO on account of difference in cash balance. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

5. I have heard the arguments of both the sides and also perused the relevant material available on record. As submitted by the learned counsel for the assessee, an addition of Rs. 9,11,149/- on account of cash credit availed by the assessee from Canara Bank has already been made by the AO in the assessment completed for assessee's case for A.Y. 2007-08 and since the said cash credit availed by the assessee from Canara Bank is explained as source of the excess cash balance added by the AO for the year under consideration, it has resulted in double addition. In reply to a query raised in this regard, he however has admitted that the addition of Rs. 9,11,149/- made by the AO in A.Y. 2007-089 has been challenged by the assessee in the appeal filed by the Ld. CIT(A) and the same is pending. In my opinion, the decision of the Ld. CIT(A) on the issue involved in A.Y. 2007-08 relating to the

addition made on account of cash credit availed by the assessee from Canara Bank will have a direct bearing on the issue involved in this appeal of the assessee for A.Y. 2008-09 and this position is accepted even by the learned representatives of both the sides. They have also agreed that it would be appropriate that both these issues involved in assessee's case for A.Y. 2007-08 and 2008-09 are decided together so that holistic view can be taken. I, therefore, set aside the impugned order passed by the Ld. CIT(A) on the issue involved in this appeal and remit the matter back to the him for deciding the same afresh along with the appeal of the assessee for A.Y. 2007-08 which is pending with him.

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

Order Pronounced in the Open Court on 14th July, 2017.

Sd/-
(P.M. Jagtap)
ACCOUNTANT MEMBER

Dated: 14/07/2017

Biswajit

Copy of order forwarded to:

1. Rokia Khatun, C/o P.S. Gupta (Advocate), 100 Bank Lane, Hatar Para, P.O. Krishnagar, Dist. Nadia, Nadia – 741101.
2. ITO, Jangipur Murshidabad, Murshidabad.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Sr. P.S. / H.O.O.
ITAT, Kolkata