

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI
BEFORE MS. DIVA SINGH, JUDICIAL MEMBER**

**ITA No. 2609/Del/2017
Assessment Year: 2012-13**

Waseem Siddiqui C/o, Vinod Kumar Goel, 282, Boundary Road, Civil Lines, Meerut PAN : ACBPW7687A	Vs.	ITO Ward-2(4) New Delhi
(Appellant)		(Respondent)

Appellant by	Sh. Vinod Kumar Goel, Advocate
Respondent by	Sh. T. Vasanthan, Sr. D.R.
Date of hearing	24-08-2017
Date of pronouncement	18.10.2017

ORDER

PER DIVA SINGH, J.M. :

The present appeal has been filed by the assessee assailing the correctness of the order dated 20.12.2016 of CIT(A), Aligarh pertaining to 2012-13 assessment year on various grounds assailing the addition of Rs. 8,00,000/-.

2. Both the parties have been heard. The relevant facts of the case are that the assessee was required to explain the deposit in his bank account with Punjab National Bank by way of notice under Section 148. The assessee in response thereto stated that the original return filed on 31.3.2013 may be treated as having been filed in response to the said notice. Considering the explanation filed, the deposit of Rs. 8,00,000/- in the account was held to be not explainable leading to the addition of the said amount.

3. The assessee relying upon the submissions before the Assessing Officer submitted before the CIT(A) that the net profit of Rs. 2,45,960/- on the turnover of Rs. 29,00,000/- odd worked out to almost 28.6%. Thus, it was argued that it was much more than the estimated net profit of 8% as per Section 44 AD of the Act. The assessee it was submitted was not maintaining any books of accounts accordingly the addition based on the bank deposits in the circumstances cannot be made. The assessee it was submitted was a trader in cloth / handloom, he had no other source of income. Inviting attention to paper book page no. 9 which though is a letter addressed to the Assessing Officer it was submitted would show that the assessee had completely transferred his business due to disturbances at Srinagar to Meerut.

3.1 Referring to the said letter, it was submitted that apart from the argument that the net profit declared by the assessee is higher than the legislative estimate under Section 44 AD. Even otherwise the assessee had tried to wind up its business in Srinagar and deposited the entire cash in the bank account which was opened specifically for doing business in Meerut. This fact is evidenced from paper book page no. 24 where the address given by the assessee is of Srinagar where the assessee was doing same business. After initially opening the bank account with a deposit of Rs. 500/- amount of Rs. 8,00,000/- accumulated from Srinagar business was deposited out rightly.

4. The learned Sr. DR relied upon the order of the authorities below.

5. Considering the submissions of the parties and the material available on record, I find that in the peculiar facts where due to peculiar circumstances, the assessee as a one time act relocated part of his business from a disturbed area to Meerut the one time deposits of Rs.8 lacs as having accumulated from similar business in the earlier years in the peculiar facts of the present case can be said to be explained. The assessee as per record admittedly did not have taxable income in the earlier years the fact remains that consistently the assessee is claiming that there was no other source of income. This onetime deposit of Rs. 8,00,000/- in the peculiar facts and circumstances cannot be said to be unexplained. The addition in the hands of the assessee consequently was not

warranted in these peculiar facts. The explanation of the assessee is accepted addition is directed to be deleted.

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

The order is pronounced in the open court at the time of hearing itself on 18th, October, 2017.

**Sd/-
(DIVA SINGH)
JUDICIAL MEMBER**

SH

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR,
ITAT NEW DELHI

		Date	
1.	Draft dictated on	24.08.2017	PS
2.	Draft placed before author	17.10.2017	PS
3.	Draft proposed & placed before the second member		JM/AM
4.	Draft discussed/approved by Second Member.		JM/AM
5.	Approved Draft comes to the Sr.PS/PS		PS/PS
6.	Kept for pronouncement on		PS
7.	File sent to the Bench Clerk		PS
8.	Date on which file goes to the AR		
9.	Date on which file goes to the Head Clerk.		
10.	Date of dispatch of Order.		