

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'SMC' BENCH,
NEW DELHI

BEFORE SHRI B.P. JAIN, ACCOUNTANT MEMBER

ITA No. 4722/DEL/2017 [A.Y. 2008-09]

Shri Manoj Chauhan
18/259, DMS Colony
Hari Nagar, New Delhi

Vs.

The I.T.O
Ward 70(3)
New Delhi

PAN : AAPPC 5193 M

[Appellant]

[Respondent]

Date of Hearing : 27.11.2017
Date of Pronouncement : 29.11.2017

Assessee by : Shri Ved Jain, Adv
Shri Ashish Goel, CA

Revenue by : Shri Atiq Ahmed Sr. DR

ORDER

This appeal of the assessee arises from the order of the ld. CIT(A)-28, New Delhi vide order dated 26.08.2016 for A.Y. 2008-09.

2. The assessee has raised as many as 7 grounds of appeal. However, he has pressed only ground Nos. 2 and 3 which read as under:

“2.(i) On the facts and circumstances of the case, the learned CIT(A) has erred both on) facts and in law, confirming the addition on account of bank deposits to the extent on

Rs.7,32,000/-.

(ii) That the addition has been confirmed rejecting the detailed explanation and evidence submitted by the assessee in this regard.

3. (i) On the facts and circumstances of the case the learned CIT(A) has erred both on facts and in law, in confirming the disallowance of deduction u/s 80C to the extent of Rs. 12,000/-.

(ii) That the addition has been confirmed rejecting the explanation and evidences brought on record by the assessee.”

3. Brief facts of the case are that as per the AIR information, the assessee deposited cash amounting to Rs. 12,52,300/- in his bank account. In response to the notice issued, the assessee filed cash flow statement from which the Assessing Officer noticed that there was opening cash balance of Rs. 2,15,460/-, car advance amounting to Rs. 75,000/- and sale proceeds of property amounting to Rs. 5,40,000/-, totaling to Rs. 8,30,460/-. The ld. CIT(A) confirmed the addition with regard to the opening cash balance in hand amounting to Rs. 1,92,800/- and sale proceeds of property amounting to Rs. 5,40,000/-, totaling to Rs. 7,32,800/-, against which the assessee is in appeal before me.

4. I have heard the rival submissions and have perused the relevant material on record. With respect to the opening cash in hand, the assessee submitted that the return of income for the assessment year 2007-08, alongwith balance sheet, which shows cash in hand of Rs. 2,15,460/- and no dispute in this regard has been raised by the department. Therefore, the Assessing Officer is not justified in making such addition.

5. As regards the sale proceeds of the property, it was argued by the ld. counsel for the assessee that the assessee has received a sum of Rs. 5,40,000/- in cash from Shri Anuj Singh in full and final settlement, against which sale of property and the receipt is detailed at paper book page 11 which has not been questioned. The other documents of the property are available at pages 13 to 15. Necessary confirmations of the other party are on record and the ld. CIT(A) has ignored the explanation given by the assessee and accordingly, no addition on this count can be made. The addition so made is directed to be deleted. Thus, Ground No. 2 of the assessee is allowed.

6. As regards Ground No. 3, the Assessing Officer disallowed the deduction u/s 80C of the Income-tax Act, 1961 [hereinafter referred to

as 'the Act' for short], amounting to Rs. 12,000/-, which was confirmed by the ld. CIT(A).

7. I have heard the rival submissions and have perused the relevant material on record. The assessee has produced the necessary receipts, which are on record. The assessee has claimed deduction of Rs. 79,849/- for which necessary receipts are available at pages 2, 21 to 28 of the paper book. No defects in the same have been pointed out and accordingly, the ld. CIT(A) is not justified in confirming the addition made by the Assessing Officer and the same is directed to be deleted. Thus ground No. 3 is allowed.

8. In the result, the appeal of the assessee in ITA No. 4722/DEL/2017 is allowed.

The order is pronounced in the open court on 29.11.2017.

Sd/-
[B.P. JAIN]
ACCOUNTANT MEMBER

Dated: 29th November, 2017

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi