

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F": NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

ITA No.:- 3806/Del /2011
Assessment Year: 2008-09

ITO Ward-13(2) C.R. Building, New Delhi.	Vs.	Rajesh Bakshi 10, Vohra House, Kailash Colony Extn. Zamrudpur New Delhi PAN AALPB11097B
(Appellant)		(Respondent)

Department by:	Shri Atiq Ahmed, Sr. DR
Assessee by :	Shri A.B. Bansal, CA
Date of Hearing	09/11/2017
Date of pronouncement	21/12/2017

ORDER

PER AMIT SHUKLA, J.M.

The aforesaid appeal has been filed by the revenue against impugned order dated 31.3.2011, passed by Ld. CIT(Appeals) XVI, New Delhi for the quantum of assessment u/s 143(3) for the assessment year 2008-09. The revenue is aggrieved by deletion of addition of Rs. 75,00,000/- made by the AO.

2. The brief facts *qua* the issue involved are that the assessee is a Director in M/s. Netlink Business Systems Pvt. Ltd. and also proprietor of M/s. JSB Investment, which is managing and developing residential villas at Goa. The AO on the perusal of the balance sheet of M/s. JSB Investment noted that, assessee has shown an amount of Rs. 75,00,000/- as unsecured loans from M/s. Global Solutions Pvt. Ltd. In response to the show-cause notice to justify the said credit, the assessee submitted that the said amount was received through account payee cheque for the booking of one villa in 'White Square Green Project', but instead of advance received against booking of villa, it was shown as unsecured loans due to clerical mistake. The AO made inquires by calling for the balance sheet of M/s. Global Solutions (P) Ltd. from the AO of the said company and also issued notice u/s 133(6) to the said company calling for the copy of the account of the assessee in its book for the relevant period. In response the said company furnished the copy of its balance sheet alongwith letter dated 13.12.2010. On perusal of such balance sheet and accompanying letter, AO noted that though the quantum of transaction of Rs. 75,00,000/- was admitted to be paid for booking amount for the villa, but same was refunded to it on 31.3.2008, vide cheque No. 377006 on cancellation of such booking of villa. The AO from this information observed that the other party has duly shown

the amount has been refunded back, whereas it is still appearing as a credit/ liability in the assessee's books. He held that the reply was inconsistent with the claim of the assessee's amount was outstanding. The assessee was also asked to furnish bank reconciliation statement which has been reproduced by the AO at page 3 of the assessment order and from there he noted that, though the cheque No. 377006 dated 31.3.2008 was issued by the assessee but it does not find mention in the reconciliation statement as well as in the books of accounts, albeit one cheque No. 007581 dated 15.2.2008 has been shown as cheque deposited but not cleared but the said cheque amount is appearing as credit in the bank statement in the HDFC bank account. After pointing out these discrepancies, Assessing Officer issued show cause notice, against which assessee has filed a detailed reply the content of which has been reproduced at page 4 and 5 of the assessment order, which in sum and substance are that; firstly, the outstanding balance of Rs. 75 lacs was on account of double entry and single cheque; and secondly, same is reconcilable with the fact of excess debit of Rs. 75 lacs. The AO however held that such an explanation is after thought and gave very detailed reasoning from pages 5 to 8 of the assessment order whereby he held that the amount of Rs. 75 lacs is nothing but unexplained credit in the books of assessee.

3. Before the Ld. CIT(A), the assessee explained that, firstly, there was a clerical mistake in showing the advance received as unsecured loans and secondly, there was a double entry of the same account as on 13.2.2008 and again on 15.2.2008 in the ledger entry and thus, single receipt of cheque was by mistake was accounted for two times and that is why it resulted into excess outstanding balance or credit of Rs. 75 lacs. When the amount of Rs. 75 lacs was in fact refunded back has acknowledged by the party no addition could have been made. The copy of the ledger account, bank statement, details of cheques etc. were filed and explained in detail which has been dealt and incorporated by the Ld. CIT (A) from pages 2 to 5 of the appellate order. Ld. CIT(A) on the perusal of the entire material placed on record, deleted the addition after observing and holding as under :-

“2.2 I have considered the facts of the case and the submissions made by the authorized representative of the appellant. The AR of the appellant has attributed the excess credit balance in the account of M/s Global Solutions Pvt. Ltd. to the crediting in its books of accounts of cheque nO.007581 received from that party against booking of a villa, twice mistakenly, once on 13.02.2008 and then again on 15.02.2008. Thus, as on 31.03.2008, there was excess of credit balance in the account of the party M/s Global Solutions Pvt. Ltd. as per the books of the appellant and corresponding excess of debit balance in the bank account of the appellant. The mistake was rectified on 21.04.2008, i.e. in the F.Y. relevant to the A.Y.2009-10. However, as submitted by the

appellant;; AR, there was no revenue impact i.e. the accounting error did not result in any kind of cash inflow or any kind of income to the appellant. In such circumstances the excess credit of Rs.75,00,000/- in the account of M/s Global Solutions Pvt. Ltd. with resulting excess debit in the bank account as per the books of the appellant (which mistake was, as already stated above, rectified in the subsequent year) as on 31.03.2008 cannot be brought to tax as unexplained credit, as done by the A.O. The "bank book" being relied upon by the A.O., which forms part of the assessment order as Annexure-B, is stated to be only a narration of transactions in the appellant's bank account. In this narration of transactions, the cheque no. 007581 received from M/s Global Solutions Pvt. Ltd. is reflected only once. Subsequently the appellant company returned this booking amount to M/s Global Solutions Pvt. Ltd. vide cheque no.136228, which however was returned. These two transactions also find place in the statement of narration of transactions in the bank account, on 27.03.2008 and 28.03.2008. On 31.03.2008, the bank issued demand draft no.377006 to M/s Global Solutions Pvt. Ltd. against the returned cheque. This entry, though reflected in the bank book of the appellant, is missing in the "narrations statement" given in Annexure-B to the assessment order. Thus as per the bank book there are five transactions with M/s Global Solutions Pvt. Ltd. as follows:-

<u>Date</u>	<u>Particulars</u>	<u>Vch Type</u>	<u>Vch no.</u>	<u>Debit</u>	<u>Credit</u>
13.02.2008	M/s Global Solutions Pvt. Ltd. Cheque No. 007581 dated 12.02.2008	Receipt	007581	Rs. 75,00,000/-	-
15.02.2008	M/s. Global Solutions Pvt. Ltd. Cheque No. 007581	Receipt	007581	Rs. 75,00,000/-	-
27.03.2008	M/s Global Solutions Pvt. Ltd. Cheque No. 136228 issued	payment	136228	-	Rs. 75,00,000/-
28.03.2008	M/s. Global Solutions Pvt. Ltd. Rs. 75,00,000/- Cr	Receipt	136228	Rs. 74,99,831.46	-
31.03.2008	M/s. Global Solutions Pvt. Ltd. DD No. 377006 issued	Payment	377006	-	Rs. 75,00,000/-

Due to wrongly showing receipt of cheque no.007581 twice by the appellant there was excess credit balance of Rs.75,00,000/- in the party's account and excess debit of corresponding amount in the bank account. However, as held by Hon'ble Courts, when the mistake is only on account of incorrect posting of entries and no funds have been introduced, i.e. there is no revenue impact, no addition to income on this account can be made (even if the explanation initially furnished by the appellant's AR before the A.O. about the credit balance outstanding in the name of M/s Global Solutions Pvt. Ltd. may not have been a completely

satisfactory one). Accordingly, the A.O. is directed to delete the addition so made. This ground of appeal is allowed.”

4. After hearing both the parties and on perusal of the relevant finding given in the impugned orders, we find that the addition has been made by the AO on account of unexplained credit of Rs. 75 lacs as found in the books of accounts. First of all, the assessee has duly clarified that the amount appearing was not an unsecured loan *albeit* was an advance receipt for a booking of villa by M/s. Global Solutions Pvt. Ltd. The said amount was in fact refunded back to the said party on the cancellation of villa and this fact has duly been confirmed and acknowledged by M/s. Global Solutions Pvt. Ltd. directly before the AO that the said company made the payment towards advance for purchase of villa. The assessee has again duly explained the fact that the said amount of cheque was entered into books of accounts twice and such a mistake was rectified only in the subsequent financial year and that is a reason why as on 31.3.2008 there was an excess of credit balance in the name of the said party. Such an accounting error has been duly appreciated by the Ld. CIT(A) and if that is so, then ostensibly there is no revenue impact, because it has not resulted into any kind of cash inflow and any kind of receipt or income in the hands of the assessee. Such a mistake has duly been rectified in the subsequent year and hence it cannot be held that it is an unexplained

credit in the hands of the assessee as on 31.3.2008. What the AO has narrated in the assessment order is only the nature of transaction in assessee's bank account, that is, one cheque received from M/s. Global Solutions Pvt. Ltd. is reflected only once but has failed to took note of the fact that this booking amount was returned and both these transactions is reflected in the bank account on 27.3.2008 and 31.3.2008. Ld. CIT (A) has duly incorporated the relevant transactions as per the bank books from there it is quite clear that receipt of one particular cheque No. 7581 was shown twice. Thus, it was a pure case of posting error in the accounts books and therefore, Ld. CIT(A) was correct on facts deleting the said addition and accordingly, appeal of the revenue is dismissed.

In the result appeal filed by the revenue is dismissed.

Order pronounced in the open court on 21st December, 2017.

Sd/-

sd/-

(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

(AMIT SHUKLA)
JUDICIAL MEMBER

Dated: 21/12 /2017

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Copy forwarded to

1. Applicant
2. Respondent
3. CIT

4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi