

**IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK
'SMC' BENCH, CUTTACK**

BEFORE SHRI N.S SAINI, ACCOUNTANT MEMBER

ITA No.427/CTK/2016
Assessment Year : 2010-11

Prallipta Kumar Nanda, Plot No.472, Gandamunda, Khandagiri, Bhubaneswar.	Vs.	ITO Ward 2(4), Bhubaneswar.
PAN/GIR No. AAFPN 4304 D		
(Appellant)	..	(Respondent)

Assessee by : Shri A.K.Roy, AR
Revenue by : Shri D.K.Pradhan, DR

Date of Hearing : 08 /08/ 2017
Date of Pronouncement : 10 /08/ 2017

ORDER

This is an appeal filed by the assessee against the order of CIT(A)-2, Bhubaneswar, dated 23.8.2016 for the assessment year 2010-2011.

2. The sole grievance of the assessee in this appeal is that the CIT(A) erred in confirming the addition of Rs.21,50,000/- u/s.68 of the Act.

3. The brief facts of the case are that the Assessing Officer observed that during the year the assessee had made deposit of Rs.21,50,000/- in the bank account with ING Vyasya Bank Ltd. He observed that there are cash deposit of Rs.11,50,000/- and cheque deposit of Rs.10,00,000/- aggregating to Rs.21,50,000/-. The assessee claimed that these are contract receipts and only 8% of Rs.21,50,000/- amounting to

Rs.1,72,000/- is chargeable to tax. The Assessing Officer did not accept the explanation of the assessee and brought to tax Rs.21,50,000/- u/s.68 of the Act.

4. On appeal before the CIT(A), the assessee contended that it had receipts by cheque of Rs.10,00,000/- from Shri Akhaya Kumar Patra, who confirmed having paid the sum of Rs.10 lakhs in response to notice 133 of the Act. Further, Rs.11,50,000/- was received from 14 persons in cash as under:

Sl. No.	Name & Address	Amount	Date of receipt by the appellant.
1.	Balunkeswar das. At/Po- Datatotta sahi, Dist-Puri	77,000	15/04/2009
2.	Jayanta Pattnayak Plot No. -125, Bapuji Nagar, Bhubaneswar	81,200	21/04/2009
3.	Suresh Das SB1 Colony, Keshura, Jharapara, Bhubaneswar	92,400	16/05/2009
4	Jayanta Pattnayak Plot No. -125, Bapuji Nagar, Bhubaneswar	81,200	27/05/2009
5	Jayanta Pattnayak Plot No. -125, Bapuji Nagar, Bhubaneswar	81,200	27/05/2009
6	Somanath mishra At/Po-Datatotta Sahi, Dist-Puri	77,000	29/05/2009
7	Jayanta Pattnayak Plot No. -125, Bapuji Nagar, Bhubaneswar	81,200	04/06/2009
8	J.indra Satpathy, 'Shop No. 12, Krishna Homeo Clinic, Siripur, Bhubaneswar.	92,400	23/06/2009
9	Namita Sahoo Plot No-69, Dumduma Housing Board Colony, Bhubaneswar-19	77,000	03/07/2009
10	Manjulata Sahu Plot No.69, Dumuduma, H.B. colony, Bhubaneswar.	81,200	21/08/2009
11	Rohit Bhanj, At-Aiginia, PO: Dumuduma, Khandagiri, Bhubaneswar.	80,000	26/08/2009
12.	Bhobani Puhamn & Prahulla Behera, At:	75,000	20.10.2009

	Maechheli, PO: Mahipur, Nayagarh		
13.	Khirabdi Tanaya Pradhan, At/PO: Ganda-Munda, Siripur, BBSR	85,000	28.10.2009
14.	Arup Mohanty, Labour Colony, Unit-3, BBSR	96,000	15.11.2009

5. He submitted that out of 14 persons, four persons appeared before the Assessing Officer, namely Smt. Manjulata Sahu from whom Rs.81,200/- was received, Smt. Namita Sahu from whom Rs.77,000/- was received, Shr Rohit Bhanj from whom Rs.80,000/- was received and Shri Indra Satpathy from whom Rs.92,400/- was received who confirmed having given the amount to the assessee for the construction of boundary wall and they were income tax assessee and PAN numbers were submitted. It was his submission that the addition should be deleted.

6. The CIT(A), however confirmed the action of the Assessing Officer on the ground that creditworthiness and genuineness of above persons were not proved.

7. Before me, Id A.R.of the assessee submitted that he has filed additional evidence before the Tribunal in the paper book in the form of bank statement of Shri Akhshya Kumar Patra, copy of confirmation of Shri A.K.Patra and prayed that the matter should be restored back to the file of the Assessing Officer for re-adjudication of the issue afresh in the light of the evidence now filed before the Tribunal. Further, he submitted that with regard to four persons who appeared before the Assessing Officer and confirmed having advanced money to the assessee and also filed

their PAN Numbers, therefore, the addition should be deleted. Ld A.R. submitted that with regard to balance 10 persons from whom the assessee had received Rs.8,90,400/- should be confirmed as the assessee could neither produce them before the Assessing Officer nor file confirmation from them

8. Ld D.R. supported the orders of lower authorities.

9. In the above facts and circumstances of the case, I am of the considered view that since the assessee has filed additional evidence before the Tribunal in the form of bank statement of State Bank of India, Dumduma Branch confirming the loan etc, by Shri A.K.Patra, in the interest of natural justice, the matter should be restored back to the Assessing Officer for fresh adjudication of loan of Rs.10 lakhs after allowing reasonable opportunity of hearing to the assessee.

9.1 As regards to the amount received from four persons in cash, who appeared before the Assessing Officer and confirmed having given money to the assessee and also filed their PAN numbers, I am of the considered opinion that no material has been brought on record by the Assessing Officer after examining those persons to show that they could not have advanced money to the assessee or that the advances given are not genuine. Therefore, I delete the addition of Rs.3,30,600/- from four persons.

9.2 With regard to balance amount of Rs..8,90,400/-, received from 10 persons, the A.R. of the assessee very fairly conceded that it should be added to the income of the assessee. Therefore, I confirm the addition of Rs.8,90,400/- under section 68 of the Act.

10. In the result, appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 10 /08/2017.

Sd/-

(N.S Saini)
ACCOUNTANT MEMBER

Cuttack; Dated 10 /08/2017
B.K.Parida, SPS

Copy of the Order forwarded to :

1. The appellant : Prallipta Kumar Nanda,
Plot No.472, Gandamunda, Khandagiri,
Bhubaneswar
2. The respondent: ITO Ward 2(4),
Bhubaneswar.
3. The CIT(A) -2, Bhubaneswar
4. Pr.CIT-2, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

BY ORDER,

SR.PRIVATE SECRETARY
ITAT, Cuttack-