

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

BEFORE SHRI N.S SAINI, ACCOUNTANT MEMBER

ITA No.458/CTK/2015
Assessment Year : 2011-12

Sri Tarakanta Sahoo, At/PO: Satpatna, PS: Dasapala, Dist: Nayagarh.	Vs.	ITO, Khurda Ward, Khurda
PAN/GIR No. AXMPS 0891 A		
(Appellant)	..	(Respondent)

Assessee by : Shri B.R.Panda, AR
Revenue by : Shri D.K.Pradhan, DR

Date of Hearing : 08 /08/ 2017
Date of Pronouncement : 09 /08/ 2017

ORDER

This is an appeal filed by the assessee against the order of CIT(A)-1, Bhubaneswar, dated 21.9.2015 for the assessment year 2011-12.

2. The sole issue grievance in this appeal is that the CIT(A) erred in confirming the addition of Rs.14,14,000/- being undisclosed closing balance in bank account.

3. The brief facts of the case are that the Assessing Officer observed that the closing balance in assessee's current account No.04000210000014 with U.Co Bank, Dasapalla as per statement obtained from the bank was Rs.20,07,490/- whereas in the audited balance sheet, the closing balance was Rs.5,93,490/-. Hence, there was

a difference of Rs.14,14,000/-. Therefore, he made addition of Rs.14,14,000/- u/s.69 of the Act.

4. On appeal, the CIT(A) confirmed the action of the Assessing Officer observing that Hon'ble A.P. High Court in the case of CIT vs. M.R.Kistaiah, 220 ITR 294 (AP) has held that the Assessing Officer is entitled to treat the unexplained cash credit as income from undisclosed sources.

5. Before us, it was argued by Id A.R. of the assessee that the entire excess deposit in the bank account cannot be treated as income of the assessee. He argued that the only income embedded in the bank deposit of Rs.14,14,000/- can be assessed as income of the assessee. He relied on the decision of this Bench of the Tribunal in the case of R.R.Carrying Corporation, 30 DTR 569 in support of his contention.

6. Ld D.R. supported the order of the CIT(A).

7. After considering the rival submission and perusing the orders of lower authorities, I find that the Assessing Officer found that the closing balance at the end of the year in the current account No.04000210000014 with U.Co Bank, Dasapalla as per statement obtained from the bank was Rs.20,07,490/- whereas in the audited balance sheet, the closing balance was Rs.5,93,490/-. Hence, there was a difference of Rs.14,14,000/-. The Assessing Officer treated this difference as undisclosed investment of the assessee in the bank account and added the same to the income of the assessee u/s.69 of the Act. The

contention of the assessee is that the entire deposit cannot be treated as income of the assessee and the income embedded in the receipt of Rs.14,14,000/- can only be assessed as income of the assessee. He relied on the decision of this Bench of the Tribunal in the case of R.R.Carrying Corporation (supra). I find force in the above arguments of Id A.R. of the assessee. I find that the assessee has disclosed the turnover of Rs.3,94,24,798/- on which it has shown net profit of Rs.7,88,496/- , which works out to 2% of the total turnover. The claim of the assessee is that the receipt is found to be sale of IMFL and Beer, which is the business of the assessee, which fact is not in dispute. Hence, I am of the considered view that it will meet the ends of justice if the income of the assessee is estimated at 5% of the differential amount of Rs.14,14,000/- deposited in the bank account by the assessee. I, therefore, set aside the orders of lower authorities and direct the Assessing Officer to estimate the net profit at 5% of Rs.14,14,000/- and make addition accordingly.

8. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 09/08/2017.

Sd/-

(N.S Saini)
ACCOUNTANT MEMBER

Cuttack; Dated 09 /08/2017

B.K.Parida, SPS

Copy of the Order forwarded to :

1. The appellant : Sri Tarakanta Sahoo,
At/PO: Satpatna, PS: Dasapala, Dist:
Nayagarh.
2. The Respondent. ITO, Khurda Ward,
Khurda
3. The CIT(A) Bhubaneswar-1
4. Pr.CIT-1, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

BY ORDER,

SR.PRIVATE SECRETARY
ITAT, Cuttack