

**आयकर अपीलीय अधिकरण, “एस.एम.सी” न्यायपीठ, कटक**

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH CUTTACK

**BEFORE SHRI N.S.SAINI, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.427/CTK/2017

(निर्धारण वर्ष / Assessment Year :2013-2014)

Shri Gourang Chandra Nayak Adarsh Vihar, Plot No.07, Lane-2, Phase-1, Bhubaneswar	Vs.	ITO, Ward-3(2), Bhubaneswar
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : <b>AAHPN 7112 M</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by : Shri Nihar Ranjan Biswal, AR

राजस्व की ओर से /Revenue by : Shri D.K.Pradhan, DR

सुनवाई की तारीख / Date of Hearing : **27/12/2017**

घोषणा की तारीख/Date of Pronouncement **29/12/2017**

**आदेश / O R D E R**

This is an appeal filed by the assessee against the order of the CIT(A)-2, Bhubaneswar, dated 18.08.2017.

2. In ground No.1 of the appeal, the grievance of the assessee is that the CIT(A) was not justified in confirming the addition of Rs.3 lakhs made by the AO as undisclosed income.

3. Brief facts of the case are that the AO observed that there was cash deposit of Rs.15,09,000/- in the savings account maintained in Bank of India, Patia Branch, Patia, Bhubaneswar. The assessee claimed that cash of Rs.59,000/- was of his own and remaining amount of Rs.14,50,000/- in cash received from 15 persons. The AO after examining the details and documents filed by the assessee observed that cash deposit claimed to have been received of Rs.3 lakhs from M/s Babaji Charan Sahu on 16.05.2012 was not genuine. Therefore, he made addition of the same to the income of the assessee as undisclosed income.

4. On appeal, before the CIT(A), the assessee reiterated the submissions made before the AO that he received Rs.3 lakhs from Shri Babaji Charan Sahu and filed confirmation of the same. The CIT(A) after considering the submissions of the assessee held that Shri Babaji Charan Sahu sold property on 21.04.2010 from which cash of Rs.3 lakhs was claimed to have been given to the assessee. As per the bank details, the cash of Rs.3,00,000/- was deposited on 16.05.2012, hence, there a gap of more than 2 years. He observed that it is not possible that someone will keep the cash for more than two years and gave it to another person without any interest. He observed that the assessee has tried to explain that Babaji Charan Sahu had given cash to his son, received it back and thereafter, gave to the assessee. This is an afterthought. Shri Babaji Charan Sahu is not assessed to tax. Even his PAN has not been given by the assessee. No bank statement of Babaji Charan Sahu has been filed. Therefore, identity and creditworthiness of Babaji Charan Sahu has not been proved. Hence, he confirmed the action of AO.

5. Before me, the AR of the assessee could not point out any specific error in the above order of the AO as well as the CIT(A). No evidence was filed before me to prove the genuineness of the transaction, creditworthiness of the loan creditor and identity of the loan creditors, which is the onus on the assessee as per the provisions of Section 68 of the Act. Hence, I find no good reason to interfere with the order of the CIT(A). It is confirmed and the ground of appeal of assessee is dismissed.

6. In ground No.2, the grievance of the assessee is that the CIT(A) was not justified in confirming the addition on account of undisclosed income.

7. Brief facts of the case are that on examination of deposits made in the bank account of the assessee, the AO found that the assessee has claimed to have received Rs.20,000/- on 11.09.2012 from Goutam Chandra Nayak and on Rs.30,000/- received on 19.12.2012 from Jagannath Parida. The assessee could not file confirmation before the AO during the assessment proceedings, therefore, the AO added Rs.50,000/- to the income of the assessee as undisclosed income. On appeal, before the CIT(A), the assessee filed copies of confirmation. The CIT(A) observed that the confirmation of Goutam Chandra Nayak is dated 03.09.2012 from address Minjauni, PO-Barapara, Dist-Kendrapara and the confirmation of Jagannath Parida is dated 07.01.2013 from PO-Kuhuda, Cuttack. He observed that the confirmation now filed by the assessee was not filed before the AO and reason for the same was not explained by the assessee. He observed that the address of Goutam Chandra Nayak and Jagannath Parida is vague and they cannot be reached with these addresses. He observed that there was no proof of identification attached with these confirmations. He observed that these confirmations were not filed before the AO and it is additional evidence before him. Considering these aspects, he rejected the confirmations.

8. Before me, the AR of the assessee could not point out any specific error in addition of the order of the CIT(A).The AR of the assessee also

could not file confirmations from the two loan creditors of Rs.20,000/- and Rs.30,000/- giving their full address and PAN. Hence, I find no good reason to interfere with the order of the CIT(A), which is confirmed and this ground of appeal of the assessee is dismissed.

9. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on this 29/12/2017.

**Sd/-  
(N. S. SAINI)**

**लेखा सदस्य / ACCOUNTANT MEMBER**

**कटक Cuttack; दिनांक Dated 29/12/2017**

प्र.कु.मि/PKM, Senior Private Secretary

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT, Cuttack
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

**(Senior Private Secretary)**

आयकर अपीलीय अधिकरण, कटक / ITAT, Cuttack