



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAIPUR BENCH, RAIPUR**

**BEFORE S/SHRI N.S SAINI, ACCOUNTANT MEMBER  
AND PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA No.95/Rpr/2012**

Assessment Year : 2009-2010

Income Tax Officer, Ward - 1(2), Raipur	Vs.	Shri Sanjay Jadwani, Sanjay Automobiles, M.G.Road, Raipur
PAN/GIR No.ACTPJ 5650 N		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : None  
Revenue by : Smt Sheetal Verma, DR

**Date of Hearing : 09/01/ 2018**  
**Date of Pronouncement : 11 /01/ 2018**

**ORDER**

**Per Pavan Kumar Gadale, JM**

This is an appeal filed by the Revenue against the order of the CIT(A)-Raipur, dated 7.5.2012 for the assessment year 2009-2010.

2. None appeared on behalf of the respondent-assessee when the case was called for hearing. Therefore, we proceed to decide the appeal of the revenue exparte-qua-respondent-assessee after hearing Id D.R. and on the basis of material available on record.



3. Grounds of appeal raised by the revenue are as under:

"1. Whether in law and on facts & circumstances of the case, the CIT(A) has erred in deleting the addition of Rs.4,48,799/- on account of unaccounted cash sales."

2. Whether in law and on facts & circumstances of the case, the CIT(A) has erred in deleting the addition of Rs.29,86,105/- made by the AO on account of peak credit balance of undisclosed bank account with IDBI bank.

3. Whether in law and on facts & circumstances of the case, the CIT(A) was justified in admitting additional evidence in violation of Rule 46A of I.T.Rules, 1962."

4. Brief facts of the case are that the assessee derives income as stockiest of Hero Honda spare parts. The Assessing Officer found that the assessed has shown gross profit and net profit at Rs.35,89,692/-(3.65%) and Rs.9,74,667/-(0.99%) as against total sales of Rs.9,83,47,730/- as against gross profit shown and net profit shown of Rs.20,05,,873/-(2.86%) and Rs.6,72,267/-(0.96%) in the immediately preceding assessment year. The Assessing Officer also noticed that the assessee has been maintaining two bank accounts i.e. with State Bank of India and IDI Bank. He observed that the bank account maintained by the assessee with State Bank of India is mentioned in the balance sheet whereas the bank account maintained with IDBI bank is missing. Since the total cash deposits in both the bank accounts comes to Rs.1,22,95,861/- and the assessee has not submitted any explanation regarding the same, the Assessing Officer treated



Rs.,1,22,95,861/- as undisclosed cash sales of the assessee. The Assessing Officer also calculated the gross profit rate at 3.65% of undisclosed cash sales and added Rs.4,48,799/- to the income of the assessee. The Assessing Officer added Rs.29,86,105/- on account of peak credit balance.

5. Being aggrieved, the assessee filed appeal before the CIT(A). Before the CIT(A), the assessee explained that the cash deposits and withdrawn with the IDBI account could not be furnished to the Assessing officer within the time given by him i.e.22.12.2011 as the account was not operational. The assessee filed bank statement of IDBI bank, Civil Lines, Raipur and personal balance sheet of the assessee, explanation of source of cash deposits and nature of payment entries in IDBI bank account before the CIT(A).

6. The CIT(A) forwarded the submissions of the assessee to the Assessing Officer for his comments. The Assessing Officer sent his remand report, stating as under:

"On verification, it is noticed that the cash deposits in the bank account maintained with the SBI has been incorporated in the books of account.

Now that the appellant has furnished the copy of account of Hero Honda Motors Ltd. In the personal capacity and other documents in support of the profit and loss account from trading activity carried from IDBI bank, whereby the appellant has shown additional gross profit of Rs.2,53,430/- the same has been verified with the documents



and IDBI bank statement in support of appellant's claim, that it is therefore, requested to decide this issue on merits."

7. The CIT(A) after considering the remand report and the submission of the assessee deleted the addition observing as under:

"It is seen that the appellant has carried out his business activity in M/s. Sanjay Automobiles as stockiest of Hero Honda and that during the relevant year, he has also carried out some part of his business in his individual capacity in his personal saving account i.e. IDBI account. The appellant has placed before me the details of transactions carried out in the IDBI bank account, his personal balance sheet, P&L account, bank book of IDBI bank account, his personal cash book and invoices in respect of trading business. As the AO accepted that the bank account in the State Bank of India is duly reflected in the audited books of account and the transactions in bank account in IDBI has also been explained by the appellant inasmuch as the appellant had carried out trading business from the saving bank account in IDBI, the fact remains that both the bank accounts in respect of which additions were made by the AO stands explained by the appellant. Even in the remand report, the AO has not pointed out any adverse remark on the explanation put forth by the appellant. Therefore, according to the P&L account, of the assessee in personal capacity, there is a clear cut escapement of income to the tune of Rs.2,55,430/-, which has also been verified and accepted by the AO. Hence, the addition made by the AO on peak credit theory cannot be sustained, when the transaction of the IDBI bank account is explained by the appellant and has been accepted by the AO. Accordingly, the addition of Rs.4,48,799/- and Rs.29,86,105/- are reduced to Rs.2,55,430/-. The appellant in all gets relief of Rs.4,48,799/- and Rs.27,30,675/- (Rs.29,86,105 - Rs.2,55,430/-)."

8. Ld D.R. supported the order of the Assessing Officer.



9. After considering the submission of Id D.R. and perusing the orders of lower authorities, we find that no specific error in the order of the CIT(A) could be pointed out by Id D.R. Therefore, we do not find any good reason to interfere with the order of the CIT(A), which is hereby confirmed and grounds of appeal of the revenue is rejected.

10. In the result, appeal filed by the revenue is dismissed.

Order pronounced on 11/01/2018.

Sd/-

**(N.S Saini)**  
**ACCOUNTANT MEMBER**

sd/-

**(Pavan Kumar Gadale)**  
**JUDICIALMEMBER**

Raipur; Dated 11/01/2018  
B.K.Parida, SPS

**Copy of the Order forwarded to :**

1.	The Appellant : Income Tax Officer, Ward - 1(2), Raipur
2.	The Respondent. Shri Sanjay Jadwani, Sanjay Automobiles, M.G.Road, Raipur
3.	The CIT(A)-Raipur
4.	Pr.CIT- Raipur
5.	DR, ITAT, Raipur
6.	Guard file. //True Copy//

BY ORDER,

SR.PRIVATE SECRETARY  
**ITAT, Raipur**