

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "SMC", MUMBAI**

**BEFORE SHRI D.T. GARASIA, JUDICIAL MEMBER**

**ITA No.2343/M/2017  
Assessment Year: 2011-12**

Income Tax Officer, Ward 1(3), Thane Room No.10, 6 <sup>th</sup> Floor, Ashar IT Park, B Wing, Wagle Indl. Estate, Thane (W) – 400 604  (Appellant)	Vs.	Shri Kailash Talakshi Sangoi, 5, Aysha Hajiyani Manzil, KK Road, Mahagiri, Thane (W) – 400 601 <b>PAN: AWFPS3723D</b>  (Respondent)
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**Present for:**

Assessee by : Shri Pravin N. Shah, A.R.  
Revenue by : Ms. N. Hemalatha, D.R.

Date of Hearing : 01.01.2018  
Date of Pronouncement : 22.01.2018

**ORDER**

**Per D.T. Garasia, Judicial Member:**

The present appeal has been preferred by the Revenue against the order dated 27.01.2017 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2011-12.

2. The short facts of the case are as under:

AIR information in the case of Sh. Kailash Sangoi HUF showed that there was cash deposit of Rs.46,50,000/- with Thane Janta Sahkari Bank Limited (TJSB Ltd.). The Assessing Officer (hereinafter referred to as the AO) called the statement of bank account u/s 133(6) and found that the Bank account in which the cash deposits were deposited pertains to Kailash Sangoi, Individual

and not HUF. The AO issued notice u/s 148 and also issued notices under 142(1) and 143(2). The AO gave a questionnaire to the assessee and asked him to explain source of cash deposited in Saving Bank account No. 10838. The assessee submitted the copy of cash book, balance sheet and statement of the bank account along with the return of income and the revised return. It was stated by the assessee that there was cash deposit of only Rs.40,50,000/- and not Rs.46,50,000/-. He also stated that cash deposited is out of Cash available in the Cash book, which is on account of fees received during the year and the available cash-in-hand. The AO asked the assessee to give details of such fee receipts with the name and address of the person and nature of the receipts. The assessee submitted that in the cash book the names of the clients from whom the fee is received are mentioned. It was also submitted by the assessee vide letter dated 11.02.2015 that as per balance sheet of F.Y. 2009-10, as on 31.03.2010, there was Cash-in-hand of Rs. 23,79,886/- fee receivable of Rs 14,54,206/-. Further, the fee received during the year was Rs.7,01,200/-, so the total available is Rs. 45,35,291/-. The AO was however not satisfied with the claim of the assessee that he received the entire fee which was shown as receivable in earlier years in the month of November and December 2010. He rejected the explanation of the assessee in respect of Fee receivable and added the entire cash deposits of Rs.40,50,000/-.

3. Matter carried to the Ld. CIT(A) and the Ld. CIT(A) has allowed by observing as under:

“5.4 I have gone through the submission of the appellant and the assessment order. The appellant who was a Tax Practitioner has unfortunately expired. There was deposit of Rs.40,50,000/- in the Bank account with Thane Janta Sahkari Bank Limited (TJSB Ltd.) on various dates. The appellant submitted the copy of cash book showing the source of cash as under:

Date of Transaction	Cash-in-hand	Amount Deposited in Thane Janta Sahkari Bank	Balance Cash-in-hand
03.11.2010	40,68,218	10,00,000	30,68,218
04.11.2010	30,68,218	20,00,000	10,68,218
04.11.2010	10,68,218	10,00,000	68,218
11.12.2010	1,64,022	50,000	1,14,022
	<b>TOTAL</b>	40,50,000	

In the cash book, the opening Cash-in-hand as on 01.04.2010 was Rs.23,79,885/-. From May 2010 to Dec 2010, there are cash deposits on account of Fee Receivable and against each transaction of cash deposit, narration is given, which gives the detail of Name of the client and the Nature of work done. For example, on 02.05.2010 Fee of Rs. 5000/- was received from Vasanti H Nikam on account of filing of Income Tax Return. On 5, 2010, Rs.6,000/- is received from Purnima on accounting charges. Similarly, the Fees Received for VAT Return also with the name of the client. This information sufficiently proves the Bonafide of the assessee that the cash deposits are on account of Consultation Fee received from clients. The Balance Sheet of F.Y. 2008-09 and 2009-10 also show that an amount of Rs.30,02,356/- and Rs.14,54,206 was receivable on account of Fee on 31.03.2009 and 31.03.2010 respectively. These figures are also corroborated with the figure of Cash in Hand, of Rs. 10,06,911/- on 31.03.2009 and Rs. 23,79,886/- on 31.03.2010. These figures show that historically the appellant was receiving the Fee in cash and large amounts were receivable year after year. When the assessee required the Funds, the Cash in Hand and the amount receivable from clients was deposited in the Bank. Therefore the assessee has explained the sources of cash deposited in his Bank account and AO has not given any plausible reason to reject the same. The assessee therefore gets the relief of Rs.40,50,000/-.”

4. Having heard both the parties and looking to the facts and circumstances of the case, I find that assessee has submitted confirmation of various parties from whom the loan was taken, copy of bank statement and cash book. The assessee also maintained cash

book to keep the record of cash expenses. The assessee was having business of accounting writing only. Assessee is not liable to maintain books of account but assessee maintained the cash book to serve the purpose of computation of income, fees collected from client also is below limit prescribed, the books of account were audited under section 44AB of the Income Tax Act, 1961. Assessee has submitted copy of ITR, computation of income and various submissions and proved the source of cash deposit. Therefore, I am of the view that Ld. CIT(A) has verified the books of accounts and is justified in deleting the same and our interference is not required.

5. In the result, departmental appeal is dismissed.

**Order pronounced in the open court on 22.01.2018.**

**Sd/-  
(D.T. Garasia)  
JUDICIAL MEMBER**

Mumbai, Dated: 22.01.2018.

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The CIT (A) Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.