

IN THE INCOME TAX APPELLATE TRIBUNAL
RANCHI BENCH (SMC), RANCHI

[Before Hon'ble Shri J. Sudhakar Reddy]

I.T.A. No. 147/Ran/2016
Assessment Year : 2010-11

DCIT CIR 1.....Appellant
47, C.H. Area,
Jamshedpur – 831 001.

Shri Hare Ram Singh.....Respondent
Prop. M/s. Chandra Timber,
374, Bhulyadih Agrico,
Jamshedpur – 831 009.
[PAN: AIOPS 7693G]

Appearances by:

Shri P.K. Mondal, JCIT appearing on behalf of the Revenue.

Shri Devesh Poddar, Advocate appearing on behalf of the Assessee.

Date of concluding the hearing : February 22, 2018

Date of pronouncing the order : February 28, 2018

ORDER

Per J. Sudhakar Reddy, AM

This is an appeal filed by the revenue directed against the order of CIT (Appeals) Jamshedpur dated 26.02.2016 for the assessment year 2010-11 on the following grounds:

"1. On the facts and in the circumstances of the case, the Ld. CIT(A), Jamshedpur has erred in deleting the addition of Rs. 40,03,398/- made on account of unexplained investment u/s 69 of the I.T. Act without considering the detailed analyses in assessment order and remand report.

2. The applicant craves leave to pray add/amend, modify any of the grounds of appeal."

2. After hearing rival contentions, I find that the Ld. CIT(A) has held as follows:

"From the plain reading of section 69B it can be seen that where the AO finds that the amount expended on making such investment or in acquiring such bullion, jewellery, article or things exceeds the amount

recorded in this behalf in the books of account maintained by the assessee for any source of income and the assessee offers no explanation about such excess amount or the explanation offered by him is not satisfactory in the opinion of the AO. Here the assessee did not maintain any books of account he filed submission before the AO in this regards. The AO confused himself by observing that the capital of Hare Ram Singh is only Rs. 18,09,030/-. It is correct in the balance shown in capital account of Hareram Singh is Rs. 18,97,030/- as appearing in the books of Chandra Timber. It is not comprehensive capital account of Hare Ram Singh, wherein the capital shown is RS. 64,87,833/- which the AO failed to appreciate. The AO considered investment based on investment appearing in Chandra Timber only which is wrong. Based on above facts, the addition made by the AO is not proper, particularly when there is brought forward investment of Rs. 34,25,398/- and amount paid during the year to Chandra Awas Pvt. Ltd. Rs. 5,78,000/- through Chandra Timber. This fact should have been considered by the AO."

3. I find no infirmity in the order of the Ld. CIT(A) for the reasons that the capital account of the assessee in the books of Chandra Timber was wrongly taken as individual account of the assessee. The comprehensive capital account of the assessee is Rs. 16,87,833/-. Moreover, the AO made an addition under section 69 of opening balances and not as transactions during the year. This is bad in law. Hence, I uphold the order of the first appellate authority and dismiss this revenue's appeal.

4. In the result, the appeal of the revenue is dismissed.

Order Pronounced in the Open Court on 28th February, 2018.

Sd/-
(J. Sudhakar Reddy)
ACCOUNTANT MEMBER

Dated: 28/02/2018
Biswajit, Sr. PS

Copy of order forwarded to:

1. Shri Hare Ram Singh, Prop. M/s. Chandra Timber, 374, Bhuiyadih, Agrico, Jamshedpur – 831 009.
2. DCIT CIR 1, 47, C.H. Area, Jamshedpur – 831 001.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Sr. P.S. / H.O.O.
ITAT, Ranchi