



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

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

ITA No.410/CTK/2016
Assessment Year : 2010-2011

Income Tax officer, Ward-1, Berhampur.	Vs.	Sri V.Manoj Kuamar Patra, S/O-V Shyam Sundar Patra, Spectrum Monor, 204, Gandhinagar, 2 nd line, Berhampur
PAN/GIR No.ADAPV 9394 F		
(Appellant)	..	(Respondent)

Assessee by : Shri A.K.Padhy, AR
Revenue by : Shri D.K.Pradhan, DR

Date of Hearing : 15 /02/ 2018
Date of Pronouncement : 28/02/ 2018

ORDER

Per Pavan Kumar Gadale, JM

This is an appeal filed by the assessee against the order of the CIT(A)- 1, Bhubaneswar dated 16.8.2016 for the assessment year 2010-2011.

2. The sole issue involved in this appeal is that the CIT(A) was not justified in deleting the addition of Rs.1,79,77,300/- made by the Assessing Officer on account of unexplained cash deposits.

3. The brief facts of the case are that the assessee derives income from salary and insurance commission and the Return of income was filed on 29.4.2011 disclosing total income of Rs.2,51,900/- after claiming



deduction of Rs.1 lakh under chapter VIA of the Act. Based on the intimation that the assessee has made cash deposit of Rs.10 lakhs above in Saving Bank account and also investment in mutual funds of Rs.2,00,000/-, notices u/s.142(1) and 143(2) of the Act were issued and the Id A.R. of the assessee appeared and filed details and also the statement on oath was recorded u/s.131 of the Act.

4. In the assessment proceedings, the Assessing Officer a found that the assessee has maintained 10 saving bank accounts at different places. The Assessing Officer obtained the ledger copies of such bank accounts and noticed that the assessee has made substantial cash deposits and withdrawals on different dates aggregating to Rs.1,79,77,300/- during the relevant previous year and was also inter bank transactions through cheques. The Assessing Officer required the assessee to produce the books of account for verification. However, the assessee could not produce the books of account except mentioning that he is only employee of M/s. Mirco Finance Ltd and the assessee was collecting money from the public and depositing the same in various schemes of M/s. Micro Finance Ltd. Further, the Assessing Officer asked the assessee to produce evidence in support of the amounts collected from the public and the schemes in which such amounts were deposited and also the withdrawals which were for payment to the customers. The assessee failed to produce books of account and satisfactory evidence to substantiate the contentions and source of bank deposits and the collections from the



public on behalf of M/s. Micro Finance Ltd. The Assessing Officer considered the overall factual aspects and treated the cash deposits in the bank of Rs.1,79,77,300/- as unexplained cash deposits of the assessee and taxed the same as income of the assessee and passed order u/s.143(3) of the Act on 18.3.2010.

5. Aggrieved with the assessment order, the assessee has filed appeal before the CIT(A).

6. In the appellate proceedings, the assessee filed submissions and also explained that he is an employee and on behalf of Micro Finance Ltd., he is collecting money and has been complying the direction of the finance company. He filed written submission referred at para 4 of the order and the CIT(A) forwarded the copy of the written submission to the Assessing Officer for his comments. Whereas the Assessing Officer has filed the report referred at page 5 of the order. Ld A.R.'s contention that the assessee has complied with the direction of the CIT(A) and the CIT(A) having satisfied the same has deleted the addition.

7. Hence, the revenue is in appeal before us.

8. Ld D.R. submitted that the CIT(A) has erred in deleting the addition without considering the facts and findings of the Assessing Officer. The order of the CIT(A) does not satisfy the comments made by the Assessing Officer and also the CIT(A) has not verified from the facts that the assessee could not explain before the Assessing Officer the source for



redepositing the money with Mirco Finance Ltd and, therefore, prayed for setting aside the order of the CIT(A).

9. We have heard the rival submissions, perused the orders of lower authorities and materials available on record. The sole matrix of the disputed issue is with respect to deposits made by the assessee into the bank account on behalf of Micro Finance Ltd.. Ld D.R. contends that the CIT(A) having called for the remand report has not considered the observations raised and appropriate facts were not adjudicated. Whereas Ld A.R. supported his arguments with paper book evidencing the details of bank statement, copy of cash flow statement and collection receipts and vouchers of cash receipts. The contention of Ld A.R. is that these deposits made by the assessee from the customers and in return they have been deposited with Micro Finance Ltd. We, on perusal of the materials placed before us, found that the assessee does not maintain vouchers. The facts remain that the statements made in respect of deposits made in the assessee's account or paid to Micro Finance Ltd., could not be ascertained and the explanation of Ld A.R. are not satisfactory. Further the findings of the CIT (A) are only on the Assessing Officer's report that the Assessing Officer has only doubted the ledger copy and other documents filed by the assessee in the paper book and there are various facts, which have been filed by the assessee and the comments of the Assessing Officer have to be ascertained. We found that the order passed by the CIT(A) as envisaged by Ld D.R. is not clear and the order is a cryptic order only. We found that there is strength in the arguments of Ld D.R.



and, accordingly, in the interest of justice, we set aside the order of the CIT(A) and remit back the matter to the file of the CIT(A), who shall verify the material filed before us and pattern of amount received by the assessee and transaction of deposits from assessee's account with the Micro Finance Ltd has to be ascertained and shall pass the order on merit and the assessee shall co-operate in submitting the details for disposal of appeal We order accordingly.

10. In the result, appeal filed by the revenue is allowed for statistical purposes.

Order pronounced on 28 /02/2018.

SD/-

(N.S Saini)
ACCOUNTANT MEMBER

SD/-

(Pavan Kumar Gadale)
JUDICIALMEMBER

Cuttack; Dated 28 /02/2018
B.K.Parida, SPS

Copy of the Order forwarded to :

1. The Appellant : Income Tax officer, Ward-1, Berhampur
2. The Respondent. Sri V.Manoj Kuamar Patra, S/O-V Shyam Sundar Patra, Spectrum Monor, 204, Gandhinagar, 2nd line, Berhampur
3. The CIT(A)-1, Bhubaneswar
4. Pr.CIT-1, Bhubaneswar.
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

BY ORDER,

SR.PRIVATE SECRETARY
ITAT, Cuttack