

आयकर अपीलीय अधिकरण पुणे न्यायपीठ एक-सदस्य मामला पुणे में

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE

सुश्री सुषमा चावला, न्यायिक सदस्य एवं श्री अनिल चतुर्वेदी, लेखा सदस्य के समक्ष
BEFORE MS. SUSHMA CHOWLA, JM AND SHRI ANIL CHATURVEDI, AM

आयकर अपील सं. / ITA No.2460/PUN/2016

निर्धारण वर्ष / Assessment Year : 2009-10

Mr. Ashwini Baldevraj Malhotra,
Khandelwal Jain & Associates,
Alankar Cinema Building,
1st Floor, Above United Bank,
Pune – 411001

.... अपीलार्थी/Appellant

PAN: AAZPM6533B

Vs.

The Tax Recovery Officer & Assessing Officer,
Range 7, Pune

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Shri R.G. Nahar

प्रत्यर्थी की ओर से / Respondent by : Shri Ajay Modi

सुनवाई की तारीख / Date of Hearing : 22.02.2018	घोषणा की तारीख / Date of Pronouncement: 28.02.2018
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आदेश / ORDER

PER SUSHMA CHOWLA, JM:

The appeal filed by the assessee is against the order of CIT(A), Pune-5, Pune, dated 22.07.2016 relating to assessment year 2009-10 against order passed under section 143(3) of the Income-tax Act, 1961 (in short 'the Act').

2. The assessee has raised the following ground of appeal:-

1. *On facts and circumstances prevailing in the case and as per provisions & scheme of the Law it be held that addition sustained by CIT Appeals to the extent of Rs.2,59,312/- on account of credit cards payments made by the assessee are not in accordance with the provisions of the Act & the submissions made by the appellant as well as the documentary evidence placed on records by appellant. The additions so retained be deleted. Just in proper relief be granted to the appellant.*

3. The issue which arises in the present appeal is against the addition of ₹ 2,59,312/-.

4. Briefly, in the facts of the case, the assessee was a salaried person and had shown income from salary from Weikfield Foods Pvt. Ltd., Pune and also income from house property and other sources. During the course of assessment proceedings, the assessee submitted a chart showing the details of expenses which were incurred through Citi Bank Credit Card. On verification of the same, the Assessing Officer noted that the same was not tallying with bank account produced by the assessee. In reply, the assessee explained that the payments were made by Weikfield Foods Pvt. Ltd. and Weikfield Products Pvt. Ltd. The assessee was asked to submit evidences in this regard i.e. confirmation from the company/s. The assessee did furnish the details. In respect of American Express Banking Corporation, the assessee failed to furnish any letter from the company and due to paucity of time, the Assessing Officer held that the payments made to Citi Bank Credit Card of ₹ 10,78,829/- and America Express Banking Corporation of ₹ 2,18,124/-, totaling ₹ 12,96,953/- were to be added in the hands of assessee. The Assessing Officer notes that the learned Authorized Representative for the assessee agreed for the addition vide order sheet entry dated 22.12.2011.

5. Before the CIT(A), in the statement of facts, the assessee stated that her learned Authorized Representative for the assessee under mis-apprehension had signed the order sheet entry dated 22.12.2011 to the effect that the assessee had agreed to such addition. The assessee challenged the addition being factually incorrect, since the required documentary evidence in support of payments was available with the assessee. The CIT(A) after going through the written submissions of assessee and additional evidence filed, forwarded the same to Assessing Officer. The Assessing Officer however, rejected the same as the assessee had failed to file any evidence during the course of assessment proceedings, but in fairness admitted additional evidence. The CIT(A) noted that Assessing Officer had completed the assessment making addition stating the reason to be paucity of time. However, during the course of appellate proceedings, the assessee had furnished requisite evidences including the affidavit of assessee and it could not be considered as addition agreed upon by the assessee. The CIT(A) vide para 5.1 at page 7 of the appellate order perused the copies of account of assessee in the books of account of Weikfield Foods Pvt. Ltd. and Weikfield Products Pvt. Ltd. along with summary of details of loan given by the assessee to the said company and noted that there was some merit in the plea of assessee. However, confirmations were given in respect of ₹ 10,10,641/- only and accordingly, the said addition was deleted and balance of ₹ 2,59,312/- was sustained.

6. The assessee is in appeal against the same and it has been pointed out that there is no merit in the aforesaid addition since no part of amount has been paid by the assessee. Our attention was drawn to the detailed copy of accounts submitted before CIT(A) and it was pointed out that total payments due on account of credit cards were paid by the said two concerns and hence, any part of the same cannot be disallowed in the hands of assessee.

7. The learned Departmental Representative for the Revenue placed reliance on the orders of authorities below.

8. We have heard the rival contentions and perused the record. The limited issue which arises in the present appeal is the source of payment of credit cards. The assessee was employed with Weikfield Foods Pvt. Ltd. and during the year under consideration, certain amounts were paid to the credit card payments, which the assessee claims were paid by the two concerns. In this regard, the assessee has furnished certificate from the two concerns and also copy of account with breakup of entries i.e. entries which have booked for expenses and the entries which are otherwise transferred to personal account of assessee. In view of above said evidences being filed by the assessee, where the total credit card payments have been paid by the said concerns on behalf of assessee, then there is no merit in making any addition on this count in the hands of assessee. Accordingly, we hold so. The Assessing Officer is directed to delete the addition of ₹ 2,59,312/- in the hands of assessee. The ground of appeal raised by the assessee is thus, allowed.

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

Order pronounced on this 28th day of February, 2018.

Sd/-
(ANIL CHATURVEDI)
लेखा सदस्य / **ACCOUNTANT MEMBER**

Sd/-
(SUSHMA CHOWLA)
न्यायिक सदस्य / **JUDICIAL MEMBER**

पुणे / Pune; दिनांक Dated : 28th February, 2018.
GCVSR

आदेश की प्रतिलिपि अग्रहित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT(A), Pune-5, Pune;
4. The Pr.CIT, Pune-4, Pune;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे, एक-सदस्य
मामला / DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune