

आयकर अपीलीय अधिकरण, “एस.एम.सी” न्यायपीठ, कटक

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH CUTTACK

BEFORE SHRI N.S.SAINI, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.15 to 19/CTK/2018

(निर्धारण वर्ष / Assessment Year :2002-2003 to 2006-2007)

Harekrushna Panigrahi, Plot No.258/220/2508, Sailashree Vihar, Bhubaneswar	Vs.	ITO, Ward-1(2), Bhubaneswar
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AELPP 9469 F		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by : Shri J.M.Pattnaik, AR

राजस्व की ओर से /Revenue by : Shri D.K.Pradhan, DR

सुनवाई की तारीख / Date of Hearing : **28/02/2018**

घोषणा की तारीख/Date of Pronouncement **28/02/2018**

आदेश / O R D E R

These are the appeals filed by the assessee against the separate orders of the CIT(A)-1, Bhubaneswar, all dated 20.03.2015 for the assessment years 2002-03 to 2006-07.

2. The sole issue involved in all the appeals of the assessee is that the CIT(A) erred in confirming the addition of Rs.1,32,500/- for the assessment year 2002-03, Rs.1,55,000/- for the assessment year 2003-04, Rs.1,19,353/- for the assessment year 2004-05, Rs.65,500/- for the assessment year 2005-06 and Rs.72,896/- for assessment year 2006-07, respectively on account of unexplained cash deposit.

3. Brief facts of the case are that the AO found that following amounts were deposited in assessee's bank account maintained with Allahabad Bank KIIT Branch, Bhubaneswar :-

Sl.No.	Assessment Year	Cash Deposits
1.	2002-03	Rs.2,65,000/-
2.	2003-04	Rs.3,10,000/-
3.	2004-05	Rs.2,38,705/-
4.	2005-06	Rs.1,31,000/-
5.	2006-07	Rs.1,45,792/-

4. It was submitted by the assessee the amounts in the respective assessment years were received from M/s K.S.Aiyar & Co. for office expenditure for newly set up office at Bhubaneswar on various dates. The assessee had filed PAN of this firm and assessed to tax under AO Code MUM P 1121. Since the assessee could not file confirmation certificate from M/s.K.S.Aiyar & Co., therefore, the AO added the same as undisclosed income of Rs.2,65,000/-, Rs.3,10,000/-, Rs.2,38,705/-, Rs.1,31,000/- and Rs.1,45,792/- in the assessment years 2002-03, 2003-04, 2004-05, 2005-06 & 2006-07, respectively.

5. On appeal, the CIT(A) observed that the assessee has filed cash-flow statement during the assessment proceedings, where he has shown cash withdrawal at regular intervals aggregating to Rs.11,43,500/- for the assessment year 2002-03, Rs.4,64,000/- for assessment year 2003-04, Rs.10,03,500/- for the assessment year 2004-05, Rs.5,25,138/- for the assessment year 2005-06 and Rs.3,37,000/- for the assessment year 2006-07, respectively. He observed that cash withdrawals may be for personal expenses also. Hence, he held that the re-deposit of cash withdrawn cannot be completely ruled out. However, he held that it was the responsibility of the assessee to explain the non-use of cash withdrawn which was re-deposited. Therefore, he held that it will meet ends of justice if 50% of the cash deposit is treated as unexplained cash deposits. Accordingly, the CIT(A) restricted the addition of Rs.2,65,000/- to Rs.1,32,500/- in the assessment year 2002-03. Similar findings have been given by the CIT(A) for the assessment years 2003-04, 2004-05,

2005-06 & 2006-07, respectively and restricted the additions of Rs.1,55,000/-, Rs.1,19,353/-, Rs.65,500/- and Rs.72,896/-, respectively.

6. The AR of the assessee submitted that the additions made for the respective assessment years under consideration were on much higher side. He submitted that the CIT(A) has opined that re-deposit of cash withdrawal cannot be completely ruled out and, therefore, he prayed that the addition of 50% on cash deposits made in the bank account in the given facts and circumstances of the case, were excessive and a reasonable estimate may be made for the assessment years under consideration.

7. I have considered rival submissions and perused the orders of lower authorities and materials available on record. In the instant case, the AO made addition of Rs.2,65,000/-, Rs.3,10,000/-, Rs.2,38,705/-, Rs.1,31,000/- and Rs.1,45,792/- in the assessment years 2002-03, 2003-04, 2004-05, 2005-06 & 2006-07, respectively and the sources of the same could not satisfactorily explained by the assessee.

8. On appeal, the CIT(A) opined that re-deposit of cash withdrawal cannot be completely ruled out and hence, restricted the addition so made by the AO to 50% of the cash deposit made in the bank of Rs.2,65,000/- to Rs.1,32,500/- in the assessment year 2002-03. Similarly the CIT(A) restricted the additions to Rs.1,55,000/-, Rs.1,19,353/-, Rs.65,500/- and Rs.72,896/- for the assessment years 2003-04, 2004-05, 2005-06 & 2006-07, respectively.

9. The AR of the assessee has contended that the additions sustained by the CIT(A) was much higher after accepting the fact that cash withdrawn by the assessee from the very same bank were re-deposited by the assessee. Hence, he prayed for a reasonable estimation of the additions may be made in all the assessment years under appeal.

10. The DR supported the order of CIT(A).

11. After considering the rival submissions and the materials available on record, I find that though the AR of the assessee has contended that addition of 50% of the amount of cash deposit made by the assessee in Allahabad Bank KIIT Branch, Bhubaneswar sustained by the CIT(A) was excessive, he could not produce any cogent and positive material on record to show that the assessee had sufficient funds out of withdrawals made from the bank to make deposit in the bank after meeting the personal expenses of the assessee. In absence of any such material being brought on record, I find no good reason to interfere with the order of CIT(A), which is confirmed and the ground of appeal of the assessee is dismissed.

12. In the result, all appeals filed by the assessee are dismissed.

Order pronounced in the open court on 28/02/2018.

Sd/-
(N. S. SAINI)

लेखा सदस्य / ACCOUNTANT MEMBER

कटक Cuttack; दिनांक Dated 28/02/2018

प्र.कु.मि/PKM, Senior Private Secretary

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
Harekrushna Panigrahi,
Plot No.258/220/2508,
Sailashree Vihar,
Bhubaneswar
2. प्रत्यर्थी / The Respondent-
ITO, Ward-1(2), Bhubaneswar
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)

आयकर अपीलीय अधिकरण, कटक / ITAT, Cuttack