

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER AND  
SHRI MANISH BORAD, ACCOUNTANT MEMBER**

**आयकर अपील सं./ ITA No. 53/Jab/2015**

**निर्धारण वर्ष/ Assessment Year : 2005-06**

Shri Kishore Kumar Agrawal, C/o. M/s. Agrawal Stores, Main Road, Babai, Hoshangabad PAN: AVFPA 4523 K	Vs	Income Tax Officer, Itarsi
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<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/ (Respondent)</b>
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Assessee by :	Shri L.L. Sharma, Adv.
Revenue by :	Shri PD Chougule, DR

सुनवाई की तारीख/Date of Hearing : 14/03/2018

घोषणा की तारीख /Date of Pronouncement: 16/03/2018

**आदेश/O R D E R**

**PER KUL BHARAT, JUDICIAL MEMBER:-**

This appeal filed by the assessee is directed against the order of the learned Commissioner of Income-tax (Appeals)-I, Bhopal (MP) dated 14.01.2015 pertaining to Assessment Year 2005-06.

2. The assessee has raised following grounds of appeal:-

*"01. On the facts and in the circumstances of the case, the ld. CIT(Appeal) was not justified in upholding the addition of Rs. 1,01,000/- out of the total cash deposit of Rs. 1,70,000/- made in the bank account on 29.03.2005, which was made out of the funds reflected in the accounts with the returns on record available before the assessing officer.*

*02. On the facts and in the circumstances of the case, the ld. CIT(Appeal) was not justified in upholding the addition of Rs. 65,000/- towards the closing stock of the concern of the appellant M/s. Agarwal Traders.*

*03. On the facts and in the circumstances of the case, the ld. CIT(Appeal) was not justified in upholding the disallowance of Rs. 10,000/- against the justifiable expenses claimed by the appellant in his business concern M/s. Agrawal Traders.*

*04. On the facts and in the circumstances of the case, the ld. CIT(Appeal) was not justified in upholding the addition of Rs. 2,60,500/- introduced as capital by the appellant in his business concern M/s. Agrawal Traders out of the funds available with him and explained by the appellant."*

3. Briefly stated facts of the case are that case of the assessee was re-opened and the assessment under Section 147 r.w.s 144 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") was framed vide order dated 20.09.2010, assessing total income of the assessee at Rs.8,04,680/-. While framing the assessment, the Assessing Officer made various additions in the income declared by the assessee, including addition of Rs.1,01,000/- on account of unexplained cash deposit in assessee's bank account, addition of Rs.1,23,989/- on account of closing stock, disallowance of Rs.23,435/- out of various expenses, addition of Rs.2,60,500/- on account of unexplained capital introduced in the business along with other additions. Aggrieved by the order of the Assessing Officer, assessee preferred appeal before the learned CIT(A), who after considering the submissions of the assessee, partly allowed the appeal of the assessee. Further aggrieved, the assessee is now in appeal before the Tribunal.

4. At the outset, learned Counsel for the assessee submitted that he is not pressing ground No.3; hence, the same is dismissed as being not pressed.

5. Ground No.1 is against upholding the addition of Rs.1,01,000/- out of the total cash deposit of Rs.1,70,000/- made in the bank account on 29.03.2005.

6. Learned Counsel for the assessee reiterated the submissions as were made in the written submissions. He submitted that the authorities below failed to appreciate the fact that the amount was out of maturity of National

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Savings Certificate (NCC) which was purchased in the assessment year 1999-2000. It is also submitted that the authorities below confirmed the addition on the ground that no supporting evidence was produced. Learned Counsel for the assessee contended that the amount is duly reflected in the cash book. On the contrary, learned Departmental Representative opposed the submissions of the assessee.

7. We have heard the rival contentions and perused the material placed before us. We find that Id. CIT(A) confirmed the addition of Rs.1,01,000/- out of Rs.1,70,000/- made by the Assessing Officer on account of unexplained cash deposit in the assessee's bank account. However, it is the contention of the assessee that this amount is duly recorded in the cash book. The Revenue has not controverted this fact. Moreover, the Assessing Officer has not made any inquiry in the Post Office about the veracity of the claim of the assessee that the amount was received as maturity value of National Savings Certificate. Therefore, there was no justification for making this addition and the Assessing Officer is directed to delete the same. Ground No.1 of the assessee's appeal is accordingly allowed.

8. Ground No.2 of assessee's appeal is in respect of confirming addition of Rs.65,000/- made on account of difference in closing stock. Closing stock shown by the assessee was not accepted by the Assessing Officer on the ground that books of accounts have not been produced. Therefore, the Assessing Officer increased the value of closing stock by 20% and made an addition of Rs.1,23,989/-. However, learned CIT(A) restricted the addition to 10% of the closing stick to the extent of Rs.65,000/-. Aggrieved, the assessee is in appeal before us.

9. Learned Counsel for the assessee submitted that books of accounts were produced before the Sales Tax Authorities who accepted the opening stock, purchase and sales of the assessee. He also submitted that assessee deals in purchase and sale of medicines and looking to the nature of business, it is impossible to maintain the quantitative and qualitative closing stock. On the other hand, Id. Departmental Representative opposed the submissions so made by the learned Counsel for the assessee.

10. Having heard the rival contentions and perused the material available on record, we find that learned CIT(A) was not justified in confirming the addition of Rs.65,000/- made on account of difference in closing stock. It is pertinent to note from the profit and loss account of the assessee that the assessee had shown Rs.1,49,910/- before the liability of VAT, whereas the amount of Rs.13,790/- is the VAT liability as per the order passed by the Sales Tax Authority which is placed on record. Moreover, the Sales Tax Authority has accepted the opening stock, purchase and sales of the assessee. In view of all these facts and circumstances of the case, we find no justification for confirming the addition of Rs. 65,000/- on account of closing balance difference which is hereby deleted. Ground No. 2 raised by the assessee is also allowed.

11. Ground No.3 is against upholding the addition of Rs.2,60,500/-, which is introduced as capital by the assessee in his business concern M/s. Agarwal Traders out of funds available with the assessee.

12. We have heard the rival contentions and perused the material available on record. We find that assessee carries on the retail business of medicines and for the year under consideration assessee has also earned income from share trading which is also evident from the computation of

income filed with the return of income. We find that the assessee had received a sum of Rs.1,23,375.33 from Exclusive Securities Ltd which was deposited in assessee's account. Assessee had withdrawn a sum of Rs.1,28,000/- from this account and utilized for the business. Similar types of withdrawals were made from the account of the assessee out of the amount received from Exclusive Securities Ltd. Assessee submitted that an aggregate amount of Rs.5,43,000/- was withdrawn from assessee's bank account. It is also placed on record that the assessee has agricultural income of Rs.89,000/- which is also taken for investment in his medicine business. Keeping in view of these facts and circumstances of the case, we find no justification for making addition of Rs.2,60,500/- on account of unexplained capital introduced by the assessee. We, therefore, delete this addition and allow this ground of appeal raised by the assessee.

13. In the result, appeal filed by the assessee is partly allowed

**Order pronounced in the Court on 16<sup>th</sup> March, 2018 at Jabalpur.**

Sd/-

Sd/-

**(MANISH BORAD)**  
**ACCOUNTANT MEMBER**

**(KUL BHARAT)**  
**JUDICIAL MEMBER**

Jabalpur; Dated 16/03/2018

*DR*

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण./ DR, ITAT, Jabalpur
6. गार्ड फाईल / Guard file.

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बादेगानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./ Asstt.Registrar)  
आयकर अपीलीय अधिकरण, बहमदाबाद / ITAT, Jabalpur