

IN THE INCOME TAX APPELLATE TRIBUNAL

“SMC-C” BENCH : BANGALORE

BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER

ITA No. 338/Bang/2018
Assessment Year :2013-14

Shri Mungamuri Dhruva, No. 734, 4 th Main, Geetanjali Layout, HAL 3 rd Stage, New Tippasandra, Bangalore – 560 075. PAN: AAQPD5739H	Vs.	The Income Tax Officer, Ward – 5 (3) (5), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Smt. Sheetal Borkar, Advocate
Respondent by	:	Smt. Padma Meenakshi, JCIT(DR)

Date of hearing	:	15.03.2018
Date of Pronouncement	:	15.03.2018

ORDER

Per Shri A.K. Garodia, Accountant Member

This appeal is filed by the assessee which is directed against the order of Id. CIT(A)-5, Bangalore dated 30.10.2017 for Assessment Year 2013-14.

2. The grounds raised by the assessee are as under.

“1. On the facts and in the circumstances of the case, the learned Commissioner of Income-tax (A) ought to have accepted the explanation offered by the appellant and refrained from upholding the impugned addition of Rs.20,80,000/- as unexplained cash credits.

2. The learned Commissioner (A) ought to have appreciated that the source for deposit was cash withdrawals of the appellant from his own bank account.

3. The learned Commissioner (A) ought to have appreciated that the withdrawal amounts were held short while by the appellant for a purpose which did not materialize and consequently stood re-deposited into the bank account.

4. The learned Commissioner (A) ought to have appreciated that there

was no evidence available with the revenue to prove that the withdrawn money had been utilized otherwise and was not available for re-deposit and in the circumstances the explanation offered by the appellant ought to have been accepted and the learned CIT(A) ought to have refrained from upholding the impugned addition.

5. The learned Commissioner (A) ought to have appreciated that the appellant had provided adequate evidence in this regard and accordingly upholding of the impugned addition on mere surmise was uncalled for and thus the same is liable to be deleted.

6. Without prejudice, the impugned addition as confirmed by the learned Commissioner (A) is excessive, arbitrary and unreasonable and liable to be deleted in toto.

7. The learned Commissioner (A) erred in confirming the interest u/s.234B of the Act.

8. For these and other grounds that may be urged at the time of hearing of the appeal the appellant prays that the appeal may be allowed.”

3. It was submitted by Id. AR of assessee that the finding of CIT (A) in Para no. 5 of his order is this that during the appellate proceedings, the assessee was asked to reconcile the deposits vis-à-vis the withdrawals in the other bank accounts as per the bank statements but the Id. AR of assessee has filed the bank statement copies and has made an attempt to reconcile but could not do it. She drawn my attention to page 10 of the paper book as per which the assessee has given complete date wise details of cash withdrawals during 09.06.2012 to 10.10.2012 of Rs. 34.60 Lakhs and the date wise cash deposit during 27.06.2012 and 03.11.2012 of Rs. 25.47 Lakhs including the amount in dispute of Rs. 20.80 Lakhs. He submitted that in the light of this document which was made available before the CIT(A) also, it is not proper on the part of CIT(A) to say that the assessee could not reconcile the amount of deposit to the amount of withdrawals. He submitted that under these facts, the matter may be restored back to the file of CIT(A) for fresh decision after considering this document. The Id. DR of revenue supported the order of CIT(A).
4. I have considered the rival submissions. I find that only dispute is regarding explanation of assessee in respect of source of cash deposit of Rs. 20.80

Lakhs on 03.11.2012 in ICICI Bank. The finding of CIT(A) is this that the assessee has made an attempt to reconcile the cash withdrawals and cash deposit but could not do it. But there is no comment about this document which is available on page no. 10 of the paper book which is a certificate of CA and as per the certificate given by the assessee in the paper book, this document was also made available before the AO and CIT(A) both. Hence I feel it proper to restore the matter back to the file of CIT (A) for fresh decision after examining this document and even if he is not satisfied with this, he should give reasoning for rejecting this document as reconciliation of cash withdrawals and cash deposits. The CIT(A) should pass necessary order as per law in the light of above discussion after providing adequate opportunity of being heard to both sides.

5. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

Bangalore,
Dated, the 15th March, 2018.
/MS/

Copy to:

1. Appellant	4. CIT(A)
2. Respondent	5. DR, ITAT, Bangalore
3. CIT	6. Guard file

By order

Senior Private Secretary,
Income Tax Appellate Tribunal,
Bangalore.