

आयकर अपीलीय अधिकरण ,इन्दौर न्यायपीठ ,इन्दौर  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
INDORE BENCH, INDORE

श्री कुल भारत, न्यायिक सदस्य

तथा

श्री मनीष बोरड, लेखा सदस्य के समक्ष

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

आ.अ.सं./I.T.A. No. 128/Ind/2017		
निर्धारणवर्ष/ Assessment Year : 2006-07		
Shri Ashok Kumar Tawli, 52, Tilak Marg, Jobat, Distt. Alirajpur.	vs.	Income-tax Officer-2, Ratlam
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent
स्था.ले.सं./PAN: ABVPT2395P		

अपीलार्थी की ओर से/Appellant by	:	Shri S.S.Deshpande, C. A.
प्रत्यर्थी की ओर से/Respondent by	:	Shri V.J.Boricha, Sr. DR

सुनवाई की तारीख/Date of hearing	:	10.05.2018.
उद्घोषणा की तारीख/Date of pronouncement	:	11.05.2018

**आदेश / O R D E R**

**PER KUL BHARAT, J.M. :**

This appeal is filed by the assessee against the order of Id. Commissioner of Income tax (Appeals), Ujjain, pertaining to assessment year 2006-07.

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

1. The Ld. CIT(A) has erred in upholding the addition of Rs. 5,93,217/- on account of credits in the name of farmers treating it to be bogus.

It was proved before the Id. AO and Ld. CIT(A) that the assessee has purchased goods through Mandi Committee from these farmers and has made the payment in the month of April, 2006.

The addition of Rs. 5,93,217/- may please be deleted.

2. The Ld. CIT(A) erred in maintaining the addition of Rs. 23,513/- on account of low household withdrawals. The same may please be deleted.

3. Apropos ground no.1, the brief facts are that the assessee has shown the credit of Rs. 5,93,270/- from 42 persons. The credited amount shown was less than Rs. 20,000/-. Out of 42 persons, the assessee produced four persons. The AO recorded the statement of four persons,

viz., Shri Ram Singh Aman Singh, Shri Mansu Kanya, Shri Ramaliya Kakadiya and Shri Mansukh Kaniya. The AO found from the statement recorded that these persons were not having any credit balance with the assessee. During the course of appellate proceedings, the assessee filed new evidences, which were forwarded to the AO for remand report. The AO was asked specifically to check remaining 38 persons on the points of identity, creditworthiness and genuineness. The assessee failed to produce these persons before the AO on the appointed date. On appeal, the Ld. CIT(A) confirmed the addition. Aggrieved by this, the assessee is in appeal before us.

4. The Ld. Counsel for the assessee contended that the assessee is an individual doing the business of trading in foodgrains, cereals and cotton. The assessee is a small trader and the total sale is approximately Rs. 90 lacs. The assessee purchases the goods from the farmers and

traders. The payments are made within a short time. Sometimes the payments are made within a period of 2 to 3 months. While framing the assessment, the AO observed that the amounts payable at the end of the year for the purchases made were Rs. 5,93,270/- from 42 persons. The AO asked the assessee to produce four persons. The assessee produced these persons and affidavits were also filed. These persons were examined and everyone confirmed the transactions of sale with the assessee. The Ld. Counsel for the assessee further contended that in appeal, the Ld. CIT(A) called for the remand report with a direction to verify the identity, creditworthiness and the genuineness of the transaction. In remand proceedings, the AO asked the assessee to produce all the 38 persons and handed over notices u/s 131 to the assessee. The assessee requested vide letter dated 26.07.2015 to exempt the personal presence of the farmers since they were from the

Tribal area of Jhabua and were busy in agricultural activities during that period and were not ready to come to Ratlam. However, the assessee filed the khasra nakal alongwith the affidavits of 35 farmers and submitted that the payments to all of them were made during the short period in next year. The AO did not find favour with the submissions of the assessee and made the addition. The Ld. CIT(A) dismissed the assessee's appeal on the ground that the assessee failed to discharge the burden of proof for establishing the genuineness of the transaction. The Ld. Counsel for the assessee further submitted that there was no dispute that the purchases were made from the farmers since the sales were effected during the year under consideration and there was no much stock remaining with the assessee except the stock of Tuwar of Rs. 2,53,872/-. Under these circumstances, the small credits in the accounts of the tribal farmers cannot be considered as

non-genuine and no addition can be made. The Ld. Counsel for the assessee prayed that the addition made may please be deleted.

5. The Ld. Departmental Representative supported the orders of the lower authorities .

6. We have considered the facts, rival submissions and perused the material available on record. We have also gone through the written submissions submitted by the Ld. Counsel for the assessee, which is on record. We find that the assessee is doing business in a small place which is backward area in Jhabua District. We also find that the purchases are made from the Tribal farmers who were doing small farming. The amounts due are paid within a short period of 15 days to 1 month. We find that the assessee has filed the details of payments. The assessee has also filed the papers regarding B-I and P-II Khasras alongwith the affidavits in 35 cases. We find that the

sufficient material was produced before the AO and four persons were also produced before the AO. We find force in the submission made by the Ld. Counsel for the assessee. Under the above facts and circumstances, the small credits in the accounts of the tribal farmers cannot be considered as non-genuine. The addition made by the AO and confirmed by the Ld. CIT(A) at Rs. 5,93,217/- is hereby deleted. Ground no. 1 is allowed.

7. Ground no. 2 relates to the addition of Rs. 23,513/- made on account of low house hold withdrawals.

8. The assessee has withdrawn Rs. 30,483/- for house hold withdrawals. The AO considered it low and made the addition of Rs. 23,513/- , which the Ld. CIT(A) confirmed.

9. The Ld. Counsel for the assessee contended that there are only five members in his family. Assessee submitted reply before the AO that his children are studying in Government school and living in the house

which is near to the School. There are no expenses of fee and transportation. The Ld. Counsel for the assessee contended that their standard of living is also general. The amount withdrawn is sufficient in a small village.

10. The Ld. Departmental Representative supported the orders of the lower authorities.

11. We have considered the facts, rival submissions and perused the material available on record. We find force in the submission of the Ld. Counsel for the assessee. We find that the withdrawal of Rs. 30,483/- is sufficient and reasonable. We, therefore, delete the addition of Rs. 23,513/- made by the AO and maintained by the Ld. CIT(A). Ground no. 2 is allowed.

12. In the result, the appeal filed by the assessee is allowed.

The order is pronounced in the open court on  
11.05.2018.

Sd/-  
(मनीष बोरड)  
लेखा सदस्य  
(MANISH BORAD)  
ACCOUNTANT MEMBER

Sd/-  
(कुल भारत)  
न्यायिक सदस्य  
(KUL BHARAT)  
JUDICIAL MEMBER

Indore; दिनांक Dated : 11/05/2018

***CPU/SPS***

Copy to: Assessee/AO/Pr. CIT/ CIT (A)/ITAT  
(DR)/Guard file.

By order

**Private Secretary/DDO, Indore**