

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'सी' अहमदाबाद ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**" C " BENCH, AHMEDABAD**

**स्वश्री वसीम अहमद, लेखा सदस्य एवं महावीर प्रसाद, न्यायिक सदस्य के समक्ष ।**  
**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER**  
**And SHRI MAHAVIR PRASAD, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No.2484/Ahd/2016  
(निर्धारण वर्ष / Assessment Year : 2012-13)

Asst. CIT, Cir - 1(3), Ahmedabad.	<b>बनाम/ Vs.</b>	Neetaben Rajendra Seth, 456, KB Commercial Center, Nr. Dinbhai Tower, Laldarwaja, Ahmedabad - 380 001
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AEQPS 9091 H</b>		
<b>(अपीलार्थी /Appellant)</b>	..	<b>(प्रत्यर्थी / Respondent)</b>

अपीलार्थी ओर से/ <b>Appellant by</b> :	Dr. Jayant Jhveri, Sr.D.R.
प्रत्यर्थी की ओर से/ <b>Respondent by</b> :	Shri S. N. Soparkar (Adv.)

सुनवाई की तारीख / <b>Date of Hearing</b>	09/05/2018
घोषणा की तारीख/ <b>Date of Pronouncement</b>	24/05/2018

**आदेश / ORDER**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

The captioned appeal has been filed at the instance of the Revenue against the appellate order of the Commissioner of Income Tax(Appeals)-10, Ahmedabad [CIT(A) in short] vide appeal no.CIT(A)-10/ITO-WD/1(3)(1)/206/15-16 dated 21/07/2016 arising in the assessment order passed under s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") dated 26/03/2015 relevant to Assessment Year (AY) 2012-13.

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2. The Revenue has raised the followings grounds of appeal :

*“That the ld.CIT(A) has erred in law and on facts in deleting the addition of Rs.80,00,000/- made on account of trade deposit received by the assessee treated as revenue receipt.”*

3. The only issue raised by the Revenue in this appeal is that Ld. CIT(A) erred in deleting the addition made by the AO for Rs.80,00,000/- on account of treating the trade deposit as Revenue receipt.

4. Briefly stated facts are that the assessee in the present case is an individual and engaged in the business of automobile dealer and service centre. The assessee, during the year has shown certain Trade Deposits of Rs. 80,00,000/- received from his parties in its balance sheet as on 31-03-2012. The AO to the assessment proceedings observed that the amount of Trade Deposits are representing the value/sale proceedings of the vehicles, therefore, the same was added to the total income of the assessee.

5. Aggrieved, assessee preferred an appeal to Ld. CIT(A), who deleted the addition made by the AO by observing as under:

*“4. The submissions made by the appellant, the material available on record as well as the discussion undersigned had with the appellant during the course of proceedings were perused and considered. The same has also been placed on record. The addition on account of security trade deposits has been made by the AO from the A.Y. 2010-11 onwards. The ld. CIT(A) in the year 2010-11, after going into the details of the facts, has allowed the appeal of the appellant on this ground. The decision of CIT(A) for A.Y. 2010-11 is reproduced as under:-*

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"4.3 The contention of the Ld. AR are that the appellant is carrying on the business directly as well as through authorized representative dealers (ARDs) appointed by the appellant and sales service provider (SSPs) appointed by the parent company namely Hero Moto Corp Ltd. The sales through ARDs and SSPs are made of consignment basis; the sales invoice are issued by the appellant and the entire sales consideration is also directly received by her; commission is being paid to ARDs and SSPs on the sales made thorough them. Since the appellant's vehicles are kept with ARDs and SSPs for display, test drive etc at different locations, trade deposits were received from them by way of security. Confirmation letters in this regard from ARDs and SSP were furnished to the AO during the course of assessment proceedings. When the sale actually takes place, they are booked by the applicant and corresponding trade deposits were returned to ARDs and SSPs. The-opening credit Balance in the name of six ARDs and SSPs stood at Rs.44,71,107/-, during the year of deposits of Rs.35.5 lakhs is received, an amount of Rs. 26 lakhs was repaid leaving the balance of Rs 54,21,107/- in the books of accounts. AO's action in assessing the security trade deposits received during the year of Rs. 35.5 lakhs is against the basic accounting principles as the security trade deposits cannot be treated as sales and the action of the AO leads to the double taxation, as appellant is admitting the sale proceeds as and when the actual sales takes place.

4.4 Having considered the fact of the matter, I am inclined, to accept the contentions of the Ld. A.R. With view to ensure the safety of vehicles kept with ARDs and SSPs at different locations, appellant received ad-hoc amount by way of security deposits. These amount nothing to do with actual market price of the vehicles. As and when sales takes place through the ARDs and SSPs, appellant account for the sales proceeds in the books of accounts and refunds the corresponding deposits to the ARDs and. SSPs. This method has been consistently followed over the years. As seen from the assessment order u/s 143(3) passed in the appellant's case for the immediately preceding A.Y. 2009-10, the income returned is accepted and no addition in respect of trade deposits

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*received is made. Treating the security deposits as trade proceeds without the actual sales taking place is against the principle of accountancy. Moreover, given the consistent method followed by applicant, such as exercise will be revenue neutral. To be specific in the year under consideration as against the trade deposits of Rs. 35.5 lakhs received, appellant had repaid Rs.26 lakhs out of trade deposits. In effect of the net trade deposits received during the year were only the tune of Rs 9.5 lakhs. Keeping in view the facts of the case, impugned addition is deleted. This ground of appeal is allowed."*

*4.1 In the A.Y. 2011-12 as well, the ld. CIT(A) and my predecessor has allowed the appeal of the appellant on the same ground. Since the facts of the case in this year are same, by respectfully following the orders of my predecessor for A.Y. 2010-11 and 2011-12, I am inclined to accept the contention of the appellant and the addition is deleted. Accordingly, original grounds Nos.1 and 2 are allowed."*

Being aggrieved by the order of Ld. CIT(A) revenue is in second appeal before us. Both the parties before us relied on the order of authorities below as favourable to them.

6. We have heard rival contentions and perused the material available on record. At the outset, we observe that the jurisdictional Tribunal in the own case of the assessee in the identical facts and circumstances has decided the issue in favour of the assessee in ITA No.2554/Ahd/2013 pertaining to assessment year 2010-11 vide order dt. 09-08-2016, the relevant extract of the order is reproduced below:

*"5. We have heard the rival submissions, perused the material available on record and gone through the orders of the authorities below. The issue in the present case is with respect to the considering the trade deposits received by the assessee as the income of assessee. We find that the ld. CIT(A) while deleting the addition has noted that assessee is carrying on the business sales through Authorized Representative Dealers (ARDs) appointed by the assessee*

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*and Sales Service Providers (SSPs) appointed by Hero Motors Ltd, Since assessee's vehicles are kept with ARDs and SSPs for display, test drive, etc. trade deposits are received from them by the assessee by way of security deposits. The Ld.CIT(A) while deleting the addition has given a finding that as and when the sales take place through ARDs and SSPs, the sale proceeds are accounted as income by the assessee and this method of accounting has been consistently followed by the assessee and has also been accepted by the Revenue in the scrutiny proceedings. He has further noted that during the year under consideration assessee had received trade deposits of Rs.35.5 lacs and has repaid Rs.26 lacs out of it and in effect the net trade received by the assessee during the year was only to the tune of Rs.9.5 lacs. Under these circumstances, Ld.CIT(A) had deleted the addition. Before us, Revenue has not placed any material to controvert the findings / of Ld.CIT(A). In view of the aforesaid facts, we see no reason to interfere with the order of Ld. CIT(A) and thus this ground of Revenue is dismissed."*

7. Respectfully following the same, we do not find any reason to interfere in the order of Ld. CIT(A). Hence, Revenue's ground of appeal is dismissed.

8. In the result, appeal of the revenue is dismissed.

<b>This Order pronounced in Open Court on</b>	<b>24/05/2018</b>
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Sd/-  
(महावीर प्रसाद)  
न्यायिक सदस्य  
**(MAHAVIR PRASAD)**  
**JUDICIAL MEMBER**

Ahmedabad; Dated 24/05/2018  
*Priti Yadav, Sr.PS*

Sd/-  
(वसीम अहमद)  
लेखा सदस्य  
**(WASEEM AHMED)**  
**ACCOUNTANT MEMBER**

**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)-10, Ahmedabad.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad