

IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

Before Shri Kul Bharat, Hon'ble Judicial Member and
Shri Manish Borad, Hon'ble Accountant Member

ITA No. 697/Ind/2014
A.Y. 2009-10

Sardul Singh
Bhopal
Vs

::: Appellant

ITO 1(2)
Bhopal

::: Respondent

| | |
|-----------------------|-----------------|
| Appellant by | Shri N.D. Patwa |
| Respondent by | Shri K.G. Goyal |
| Date of hearing | 5.6.2018 |
| Date of pronouncement | 8.6.2018 |

O R D E R

PER SHRI MANISH BORAD, AM

This appeal of the assessee relating to the assessment year 2009-10 is directed against the order of the Commissioner of Income Tax (Appeals)-I, Bhopal, dated 26.8.2014 which is arising out of the order u/s 143(3) of the Act dated 28.12.2011 framed by the ITO 1(2), Bhopal.

2. In this appeal the assessee has taken the following grounds :-

“On the facts and in the circumstances of the case, the learned CIT(A) erred in confirming the addition of Rs.3,75,500/- being cash deposited in HDFC Bank during F.Y. 2008-09 without considering the explanation offered by the appellant properly and without considering the fact that the said deposit was made out of cash withdrawals from the appellant’s bank account with ICICI Bank and Punjab National Bank on various dates.

Thus, the order of the ld. CIT(Appeal) confirming the addition of Rs. 3,75,500/- is unjust, unfair and bad in law and thus deserves to be quashed.”

3. Briefly stated, the facts, as culled out from record, are that the assessee is an individual engaged in the business

of transportation. Income of Rs. 25,493/- is declared in the return of income filed on 30.3.2010. The case selected for scrutiny. Notices u/s 143(2) and 142(1) of the Act were duly served upon the assessee. The assessee was carrying on transportation business having four trucks and income was offered u/s 44AE of the Act as the assessee was not required to maintain regular books of accounts. However, the Assessing Officer called for information about the total turnover as well as cash deposited in various bank accounts. However, the Assessing Officer mentioning reason that the assessee has not supplied necessary information completed the assessment after making addition by applying net profit rate of 10% thereby making the addition of Rs. 1,74,480/- and also making the addition of Rs. 3,75,500/- as undisclosed income for the alleged cash deposited in HDFC Bank Ltd. The income assessed at Rs. 8,04,910/-. The assessee took the matter

before the learned Commissioner of Income Tax (Appeals) and partly succeeded as the learned Commissioner of Income Tax (Appeals) deleted the addition of Rs. 1,74,480/- by accepting the assessee's plea of being covered u/s 44AE of the Act relating to presumptive income. As regards the addition of Rs.3,75,500/- the assessee filed complete details mentioning that the source of deposit in HDFC Bank Limited was from regular cash withdrawals from other banks accounts maintained with ICICI Bank and Punjab National Bank. However, the learned learned Commissioner of Income Tax (Appeals) confirmed the addition of Rs. 3,75,500/-.

4. Now the assessee is in appeal before the Tribunal raising sole grievance against the addition of Rs. 3,75,500/- confirmed by the learned Commissioner of Income Tax (Appeals).

5. The learned counsel for the assessee referring to the submissions made before the lower authorities as well as the paper book showing details of income as well as bank accounts, submitted that the assessee's business is of plying trucks. The receipts are through account payee cheques which are deposited in ICICI Bank, HDFC Bank and Punjab National Bank. The assessee used HDFC bank credit card for paying diesel charges and for this reason cash was regularly withdrawn from ICICI and Punjab National Bank and deposited in HDFC Bank. He further mentioned that for the year under consideration a sum of Rs. 2,93,000/- and Rs. 1,19,000/- was withdrawn from ICICI Bank and Punjab National Bank respectively which aggregated to Rs. 4,12,000/- and was the source of the cash of Rs. 3,75,500/- deposited in HDFC Bank.

6. On the other hand, the learned DR vehemently argued supporting the orders of the authorities below.

7. We have heard both the parties and perused the material available on record. The issue before us relates to alleged cash deposited in HDFC Bank on various dates during the year totaling to Rs. 3,75,500/-. Both the lower authorities did not appreciate the explanation of the assessee showing the source of cash withdrawals from ICICI Bank and Punjab National Bank and treated it as unexplained. A perusal of record shows that the revenue authorities have not raised any objection about the gross receipts of the assessee which by and large are through account payee cheques only. The assessee has duly submitted copies of bank statements of all the banks before the Assessing Officer in detail which are also forming part of the order of the learned Commissioner of Income Tax (Appeals) at pages 7 & 8 giving datewise details of cash withdrawn from ICICI and Punjab National Bank and the cash deposited in HDFC Bank. The total of cash

withdrawal from ICICI Bank and Punjab National Bank is Rs.4,12,000/- and cash of Rs. 3,75,500/- has been deposited in HDFC Bank. The Assessing Officer denied the benefit to the assessee quoting that no details were provided in the assessment proceedings. However, the learned Commissioner of Income Tax (Appeals) accepted that the details were furnished before him but he could not accept the contention of the assessee by way of taking a view that the assessee should have required cash for meeting other expenses for maintenance of truck other than diesel and there was no such source of cash with the assessee except the withdrawals from ICICI Bank and Punjab National Bank.

8. We, however, on further perusal of HDFC Bank account placed at pages 14 to 21 of the paper book find merit in the contention of the learned counsel for the assessee. We observe that on various dates when the cash was deposited

just after few days of the cash deposit the assessee has utilised the balance towards payments of instalments of Chola Mandalam Finance Company as well as payment of credit cards. We take few of the instances –

(i) Cash of Rs. 30,000/- deposited on 30.6.2008 in HDFC Bank and 2.7.2008 Rs. 23,343/- has been paid to finance company towards loan instalment.

(ii) Cash of Rs.49,500/- deposited on 17.9.2008 and On 30.9.2008 Rs. 70,000/- paid towards credit card Expenses.

(iii) Rs.50,000/- deposited on 8.10.2008 and on 9.10.2008 made Credit card payment of Rs.54,538.90 and on 10.10.2008 paid loan instalment of Rs.17,150/-.

These all instances clearly show the purpose of depositing cash in HDFC Bank. We, therefore, in the given facts and circumstances of the case, are of the considered view that the assessee has been successful in explaining the source of cash of Rs. 3,75,500/- deposited in HDFC Bank account which has come through ICICI and Punjab National Bank and further alleged cash deposit in HDFC Bank has been

utilised towards business expenditure. We accordingly set aside the findings of the lower authorities and delete the addition of Rs.3,75,500/-.

9. In the result, the appeal of the assessee is allowed.

Pronounced in open Court on 8th June, 2018.

Sd/-

sd/-

(KUL BHARAT)
JUDICIAL MEMBER

(MANISH BORAD)
ACCOUNTANT MEMBER

8 June, 2018

Dn/-

Copy to – Appellant/Respodent/Pr.CIT/CIT(A)/DR/Guard File

By order