

आयकर अपीलीय अधीकरण, न्यायपीठ – “D” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH: KOLKATA
 (समक्ष)Before श्री ऐ. टी. वर्की, न्यायीक सदस्य एवं/and श्री एम .बालागणेश, लेखा सदस्य)
 [Before Shri A. T. Varkey, JM & Shri M. Balaganesh, AM]

I.T.A. No. 156/Kol/2014
Assessment Year: 2007-08

Shri Iftakar Ahmed (PAN:ALFPA8694L)	Vs.	Income-tax Officer, Wd-53(3), Kolkata
Appellant		Respondent

Date of Hearing	19.06.2018
Date of Pronouncement	11.07.2018
For the Appellant	Shri Anikesh Banerjee, Advocate
For the Respondent	Shri Saurav Kumar, Addl. CIT

ORDER

Per Shri A.T.Varkey, JM

The appeal filed by the assessee is against the order of Ld. CIT(A)-XXXIII, Kolkata dated 18.09.2013 for AY 2007-08.

2. The sole issue involved in this appeal of assessee is against the action of the Ld. CIT(A) in confirming the addition of cash deposit in bank amounting to Rs.12,95,000/- and also enhancement of addition of Rs.5,95,000/- against the cash deposited in the State Bank of India u/s. 68 of the Act.

3. Briefly stated facts of the case are that the AO by his best judgment assessment passed u/s. 144 of the Act made an addition of Rs.12,95,900/- for cash deposit in Standard Chartered Bank A/c No. 32410271121 u/s. 69 of the Act since the assessee failed to discharge his onus in respect of a show cause notice dated 29.10.2009 asking him as to why the said amount of Rs.12,95,000/- shall not be added to his total income as unexplained investment u/s. 69 of the Act. Aggrieved, assessee preferred an appeal before the Ld. CIT(A), who confirmed the action of the AO and also enhanced the additional amount of Rs.5,95,000/- against the cash deposited in the State Bank of India, Metiabruz Branch, A/c. No. 01150065184 u/s. 68of the Act. Aggrieved, assessee is before us.

4. We have heard rival submissions and gone through the facts and circumstances of the case. At the outset itself, the Id. AR of the assessee brought to our notice that the assessee for reasons beyond his control could not produce the cash book before the lower authorities which is placed before us at Page Nos.15 to 17 (Paper Book) which, according to Ld. AR, will clearly show the day-wise cash flow statement and thus the assessee will be able to explain the source of the bank deposit. According to the Id. AR since this is a fresh evidence to explain the source of cash deposits in the bank accounts and since the assessee could not produce the evidences before both the authorities below, for fairness the additional evidences submitted before this Tribunal for the first time may be admitted and the disputed issue may be remanded back to the file of the Assessing Officer for fresh assessment. We note that day-wise cash flow statement of assessee is placed at Page Nos.15 to 17 of paper book, which is presented before us for the first time and the said document has not been before the Id. CIT(A) or the Assessing Officer. We also note that the bank statement of Standard Chartered and SBI which are placed at Page No.12 to 14 has also not been produced before the Assessing Officer as well as Id. CIT(A). Since, the assessee could not produce documents or explanation before the Assessing Officer, the Assessing Officer made the addition u/s 69 invoking “*Best Judgment Assessment*” under section 144 of the Act. Before the Id. CIT(A), the assessee could not submit the aforesaid documents which according to the Id. AR is very much necessary for fair determination of the source of amount deposited in the bank account of the assessee. In such a scenario, for justice and fair play, we are inclined to admit the additional evidences adduced before us and we set aside the order of the Id. CIT(A) and remand the matter back to the file of Assessing Officer with a direction to de novo assess the income of the assessee after taking into consideration the cash book/cash flow statement filed before us in respect of the cash deposits made by the assessee in his bank accounts.

5. In the result, appeal of assessee is allowed for statistical purposes.

Order is pronounced in the open court on 11.07.2018

Sd/-
(M. Balaganesh)
Accountant Member

Sd/-
(Aby. T. Varkey)
Judicial Member

Dated : 11th July, 2018

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – Shri Iftakar Ahmed, 32B, taltala Lane, Sattar Palace, 2nd floor, P.S. Taltala, Kolkata-700 016.
2. Respondent – ITO, Ward-53(3), Kolkata.
3. The CIT(A) -XXXIII, Kolkata. (sent through e-mail)
4. CIT Kolkata
5. DR, ITAT, Kolkata. (sent through e-mail)

/True Copy,

By order,

Sr. Pvt. Secretary