

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री विजय पॉल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 228/JP/2018
निर्धारण वर्ष / Assessment Year : 2010-11

Shri Vinay Goyal B-22, Goyal Hospital Mandir Marg, Subhash Nagar, Jaipur-16	बनाम Vs.	ACIT, Circle-7, Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AASPG2161L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Vishal Gupta (CA)
राजस्व की ओर से / Revenue by : Smt Rajendra Jha

सुनवाई की तारीख / Date of Hearing : 06/08/2018
उदघोषणा की तारीख / Date of Pronouncement: 07/08/2018

आदेश / ORDER

PER: VIKRAM SINGH YADAV, A.M.

This is an appeal filed by the assessee against the order of Id. CIT(A)-3, Jaipur dated 08.12.2017 for Assessment Year 2010-11 wherein the assessee has challenged the addition of Rs. 1,30,000/- u/s 68 of the Act.

2. Briefly stated, the facts of the case are that the during the FY relevant to impugned assessment year, the assessee has received a loan of Rs. 6,30,000/- from his mother Smt. Asha Goyal. The assessee was asked to furnish the confirmation, ITR copy, statement of affairs and her creditworthiness to advance such a loan to the assessee. In response, the assessee submitted the confirmation of Smt. Asha Goyal, her bank statement copy of her ITR and balance sheet of last two years, and also an affidavit in support of explaining the sources funds which have been advanced to the

assessee. The Assessing Officer observed that there are two cash deposits totalling to Rs. 1,30,000/- in the bank account of Smt. Asha Goyal just prior to the disbursement of loan to the assessee. Further, the AO observed that Smt. Asha Goyal is a senior Citizen, doesn't have a regular cash source and there is a preponderance of probability that this money is assessee's own money which is routed through her mother's bank account as an unsecured loan. Therefore, he added the sum of Rs. 1,30,000/- to the income of the assessee.

3. Being aggrieved, the assessee carried the matter in appeal before the Id. CIT(A) and reiterated the submissions made before the Assessing Officer. The Id. CIT(A) observed that the assessee has failed to prove the creditworthiness of the cash creditor and the money was deposited just before the date on which loan was given to the assessee. Accordingly, he confirmed the addition so made by the AO.

4. Being aggrieved, the assessee is in appeal before us. Regarding the creditworthiness of Smt. Asha Goyal, the Id AR submitted that the same is duly substantiated through her return of income for AY 2009-10 and 2010-11, the balance-sheet for those two years as well as the copy of bank account and cash book maintained by the assessee.

5. On perusal of the balance-sheet for the year ended March 31 2010, it is noted that Smt. Asha Goyal has shown a sum of Rs. 9,63,584/- in her capital account and the free reserves amounting to Rs. 154,411/- totalling to Rs. 11,17,995/- which demonstrate her creditworthiness to advance Rs 6,30,000/- to the assessee. Further, she has regular source of income from running the ambulance services and also interest receipt on various savings and other investments reflected in her profit/loss account. Further, we find that the confirmation as well as the affidavit from Smt. Asha Goyal is also available on record which clearly demonstrates the loan funds advanced to the assessee.

In the light of the same, we are of the considered view that there is no basis for making the addition u/s 68 of the Act. In the result, the addition made by the AO is hereby deleted.

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

Order pronounced in the open Court on 07/08/2018.

Sd/-
(विजय पॉल राव)
(Vijay Pal Rao)
न्यायिक सदस्य / Judicial Member

Sd/-
(विक्रम सिंह यादव)
(Vikram Singh Yadav)
लेखा सदस्य / Accountant Member

Jaipur

Dated:- 07/08/2018

*Ganesh Kr

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Shri Vinay Goyal, Jaipur
2. प्रत्यर्थी / The Respondent- ACIT, Circle-7, Jaipur
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 228/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar.