

**IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'A' CHANDIGARH**

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
Dr. B.R.R. KUMAR, ACCOUNTANT MEMBER**

ITA No. 615/CHD/2018
Assessment Year : 2008-09

Sh. Jaswant Rai,
Keshav Properties,
Near Bus Stand, Baddi
Himachal Pradesh

Vs. The ITO,
Baddi, H.P.

PAN No. AJZPR4175P

(Appellant)

(Respondent)

Appellant by : Sh. Charitra Kumar, CA
Respondent by : Smt. Chanderkanta, Sr. DR

Date of Hearing : 30.07.2018
Date of Pronouncement : 04.09.2018

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 26.02.2018 of the Commissioner of Income Tax(A), Palampur [hereinafter referred to as 'CIT(A)'].

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

1. That having regard to facts and circumstances of the case, Ld. CIT (A) has erred in law and on facts in confirming additions of Rs. 4,50,000/- u/s 69 of the Act made by Ld. Assessing Officer on account of cash deposit in the bank account of the assessee as income from undisclosed sources and that too by assuming the same to be a cash credit.

2. That having regard to facts and circumstances of

the case, Ld. CIT (A) has erred in law and on facts in not allowing the benefit of telescoping against Rs. 4,50,000/- cash deposit in bank as claimed by the assessee more-so in ignorance of facts of the case and submissions made.

3. That having regard to facts and circumstances of the case, Ld. CIT (A) has erred in law and on facts in confirming additions of Rs. 3,43,280/- u/s 69A of the Act made by Ld. Assessing Officer on account of money received in the bank account in the name of Shri Paramjit Singh and that too by recording incorrect facts.

4. That in any view of the matter and in any case the action of the Ld. CIT (A) in confirming the addition made is bad in law and against the facts and circumstances of the case.

5. That having regard to facts and circumstances of the case, Ld. CIT (A) has erred in law and on facts in confirming the order of Ld. Assessing Officer flouting the principles of natural justice by passing an order without considering the submissions made by the assessee. material on record, recording incorrect facts and without appreciating the complete facts and circumstances of the case.

3. Ground Nos.1 & 2 :- The assessee has agitated the addition made by the Assessing officer and further confirmed by the CIT(A) u/s 69 of the Income-tax Act, 1961 (in short 'the Act') of an amount of Rs. 4,50,000/- on account of unexplained cash deposits found in the bank account of the assessee and further not allowing the benefit of telescoping against the said cash deposited.

On being asked to explain, the assessee could not give satisfactory reply in this respect. Earlier, he stated that it was out of the cash in hand. However, he could not submit any cash flow statement or documentary evidence about the said source of cash. Later on, in the appellate proceedings before the CIT(A), a general and vague submission was made that cash withdrawals had also been made by the assessee from the bank account prior to the deposits. However, no relevant evidence in support of the above claim was made.

4. Even before us, the assessee could not address any satisfactory argument / reply on this issue. So far as the plea of the benefit of the above addition is concerned, the Ld. CIT(A) observed that assessee had already been granted the benefit of cash availability / telescoping of assessed income of Rs. 2,73,950/- while deciding the ground Nos. 1 & 2 of the appeal of the assessee and that since no further availability of cash remains to set off this addition made by the Assessing officer on unexplained cash credit of Rs. 4,50,000/-, hence, there was no question of any telescoping benefit in this respect. We do not find any infirmity in the order of the CIT(A) in this respect also.

These grounds of appeal raised by the assessee are hereby dismissed.

5. Ground No. 3: Vide this ground the assessee has agitated the confirmation of addition of Rs. 3,43,280/- made by the Assessing officer u/s 69A of the Act.

6. The brief facts relating to the issue are that a sum of Rs. 50,000/- was credited / transferred to the account of the assessee by an employee of the assessee namely Shri Paramjit Singh. The Assessing officer made inquiries and found that assessee was the introducer of the bank account of his employee. He treating the entire deposits in the bank account of the assessee namely Shri Paramjit Singh as undisclosed deposits / income of the assessee deposited in the name of his employee Sh. Paramjit Singh. However, no enquiries were made from Shri Paramjit Singh in this respect. The Ld. Counsel for the assessee has explained that the assessee was introducer / witness to the account as Shri Paramjit Singh who was an employee, however, there was no evidence on the file that deposits found in the bank account of Sh. Paramjit Singh belonged to the assessee.

7. We find force in the contention of the Ld. Counsel for the assessee especially in the absence of any corroborative evidence for the lower authorities to link the deposits found in the bank account of Shri Paramjit Singh to the assessee without any enquiry being made from Shri Paramjit Singh in this respect. However, we find force in the contention of the Ld. DR that the assessee could not explain the transaction of deposit of Rs. 50,000/- by Shri Paramjit Singh in the bank account of the assessee.

8. In view of this, the addition of this account is restricted to Rs. 50,000/- which was found transferred into the account of the assessee from the account of Shri Paramjit Singh. This ground is therefore, treated as partly allowed.

No other ground or issue was pressed before us.

In the result, the appeal of the assessee is treated as partly allowed.

Order pronounced in the Open Court on 04.09.2018

Sd/-

(B.R.R KUMAR)
ACCOUNTANT MEMBER
Dated : 04.09.2018
Rkk

Sd/-

(SANJAY GARG)
JUDICIAL MEMBER

Copy to:

- *The Appellant*
- *The Respondent*
- *The CIT*
- *The CIT(A)*
- *The DR*