

आयकर अपीलिय अधिकरण "SMC" न्यायपीठ मुंबई मे ।

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, MUMBAI

श्री महावीर सिंह, न्यायिक सदस्य के समक्ष ।

BEFORE SRI MAHAVIR SINGH, JUDICIAL MEMBER

आयकर अपील सं./ ITA No. 1680/Mum/2018

(निर्धारण वर्ष / Assessment Year 2012-13)

Shri Milapchand Mehta (Prop. Gaurav Metal) Kalyan Steel Centre, 3 rd Floor, Lokhandwala Building, Mumbai-400 004	Vs.	The Income Tax Officer, Ward 19(2)(3), Room No. 221, Matru mandir, Tardeo Road, Grant Road, Mumbai- 400 007
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
स्थायी लेखा सं./PAN No. AAPPM0870R		

अपीलार्थी की ओर से / Appellant by : Shri Gautam Salecha, AR

प्रत्यर्थी की ओर से / Respondent by : Shri SK Bepari, DR

सुनवाई की तारीख / Date of hearing:	23.10.2018
घोषणा की तारीख / Date of pronouncement :	23.10.2018

आदेश / ORDER

महावीर सिंह, न्यायिक सदस्य/

PER MAHAVIR SINGH, JM:

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals)-52, Mumbai [in short CIT(A)], in appeal No. CIT(A)-52/IT-95/ITO-19(2)(3)/17 vide dated 01.01.2018. The Assessment was framed by the Income Tax Officer, Ward-19(2)(3), Mumbai (in short 'ITO'/ AO) for the A.Y. 2012-13 vide dated 24.03.2015 under section 143(3) of the Income Tax Act, 1961 (hereinafter 'the Act').



2. The only issue in this appeal of assessee is against the order of CIT(A) confirming the action of the AO making adding of unexplained cash credits under section 68 of the Act. For this assessee has raised the following 2 grounds: -

“1. Under the facts and the circumstances of the case and in law, Id. CIT(A) erred in considering loans taken by the appellant as unexplained cash credit when appellant has fulfilled all the condition of section 68 of the Income Tax Act, 1961.

2. Under the facts and circumstances of the case and in law, the Id CIT(A) erred in understanding that ITR acknw., bank Passbook, Personal Capital A/c and Statement of Affairs of parties were submitted at Assessment Level and AO didn't doubted such documents to substantiate that loan transactions are genuine.”

3. I have heard the rival contentions and gone through the facts and circumstances of the case. I find that assessee has taken unsecured loan of Rs. 4,54,000/- from Shantidevi Rajendra Mehta, amount of Rs. 3.5 lacs from Rajendra J Mehta and Rs. 2 lacs from Rajendra J Mehta, HUF. The AO added this cash credits as unexplained cash credit amounting to Rs. 10 lacs and consequential interest claimed to have been paid to these parties amounting to Rs. 90,000/- was disallowed. Aggrieved, assessee preferred the appeal before CIT(A). The CIT(A) also confirmed the action of the AO. Aggrieved assessee is in second appeal before Tribunal.

4. I have gone through the facts of the case and noticed unusual things from Bank statement, wherein it is noticed that Shantidevi Rajendra Mehta, who deposited cash of Rs. 4.54 lacs on various dates just



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immediate before advancing this loan of Rs. 4.54 lacs. These cash deposited in the bank account of bank of Baroda account No. 13100100012949 between the dates 13.06.2011 to 28.06.2011 and advanced these amounts during these period only. Similarly, Shri Rajendra J Mehta deposited cash of ₹ 3.5 lacs on various dates and advanced the loan of ₹ 3.5 lacs immediate on next date or one or two days after that. Similarly, Rajendra J Mehta, HUF also deposited cash of Rs. 2,03,000/- in this period and advanced the loan of Rs. 2 lacs to the assessee on the next date. This has been verified from the bank statements of these loan creditors namely Shantidevi Rajendra Mehta, Rajendra J Mehta, Rajendra J Mehta HUF. The assessee is unable to prove the source of these cash deposits by these parties in their respective bank account and in the absence of any details simply filing acknowledgement of return, computation of income will not prove the source of credits. Accordingly, I am of the view that the AO and CIT(A) has rightly confirmed the addition and I uphold the same. The appeal of assessee is dismissed.

5. In the result, the appeal of assessee is dismissed.

Order pronounced in the open court on 23-10-2018.

आदेश की घोषणा खुले मे दिनांक 23-10-2018 को की गई ।

Sd/-

(महावीर सिंह /MAHAVIR SINGH)

(न्यायिक सदस्य/ JUDICIAL MEMBER)

Mumbai, Dated: 23-10-2018

Sudip Sarkar /Sr.PS



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Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT (A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.
//True Copy//

BY ORDER,

Assistant Registrar
ITAT, MUMBAI