

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B' NEW DELHI
BEFORE SHRI G.D. AGRAWAL, VICE PRESIDENT
AND
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER
I.T.A. No.2267/Del/2015
Assessment Year: 2010-11

**Income-tax Officer,
Ward-4, Rohtak.**

vs

**Shri Umesh Godi,
H.No.886/23, DLF Colony, Rohtak.
(PAN:AGFPG7420B)**

(Appellant)

(Respondent)

Appellant by: Ms Ashima Neb, Sr. DR

Respondent by: Shri Umang Sahai Aggarwal, Advocate

Date of hearing: 30.10.2018

Date of Pronouncement: 31.10.2018

ORDER

PER K. NARASIMHA CHARY, JM

Challenging the deletion of additions vide order dated 12.2.2015 in Appeal No.217/2013-14 by learned Commissioner of Income-tax (Appeals), Rohtak {for short "Id.CIT(A)"} for Asstt. Year 2010-11, Revenue preferred this appeal.

2. Brief facts of the case are that the assessee is an individual and proprietor of M/s Seema Industries Rohtak dealing in manufacturing and trading of auto components. For Asstt. Year 2010-11, he has filed his return of income on 31.3.2011 declaring an income of Rs.57,300/-. During scrutiny proceedings,

learned AO observed that as per the AIR information, the assessee had made the cash deposits to the tune of Rs.23,55,500/- with Oriental Bank of Commerce. Thereupon the learned AO called for the information u/s 133(6) of the Income-tax Act, 1961 ("the Act") and it was revealed that the assessee had total deposits of Rs.66,20,094/- with four banks. Learned AO recorded that the assessee offered no explanation nor any documentary evidence was produced. Learned AO, therefore, made an addition of Rs.66,20,094/- to the income of the assessee.

3. Further, learned AO, from the CIB information found that the assessee invested a sum of Rs.5,72,850/- in motor vehicle purchased from M/s PASCO Automobiles, Gurgaon and since there was no sustainable and reliable explanation for the source of this investment, learned AO added this amount to the income of the assessee.

4. Aggrieved by these additions, assessee preferred an appeal before the learned CIT(A) and submitted certain documentary evidence, which could not be produced before the learned AO. Learned CIT(A) called for the remand report of the learned AO with reference to the additional evidence that was sought to be produced and basing on the remand report dated 6.1.2015 to the effect that all cash deposits as well as the source of investment in vehicle were fully explained to the satisfaction of the AO, learned CIT(A) allowed the appeal and deleted the additions. As against the findings of learned CIT(A), the revenue is in this appeal before us stating that the learned CIT(A) erred in deleting the additions and failed to exercise the co-terminus power vested in him to reach a conclusion by proper examination of the facts.

5. It is the argument of the learned DR that though there is a remand report touching additions, namely, Rs.66,20,094/- in respect of deposits in the banks and Rs.5,72,850/- on account of the investment in purchase of vehicles, in all fairness, learned CIT(A) should have exercised her co-terminus power vested in her. For this purpose, learned DR placed reliance on the decision reported in CIT vs. M/s Jan Sampark Advertising and Marketing (P) Ltd., (2015) 375 ITR 373 (Del).

6. Per contra, it is the argument of the learned AR that after considering the material that was placed before the learned AO and after making thorough enquiries, learned AO made two additions which were challenged before the learned CIT(A) and when learned CIT(A) sought the remand report, learned AO considered the evidence produced and gave a report to the fact that the entries in the bank deposits and source of investment are properly explained. In these circumstances, there is not much the CIT(A) can do in exercise of the co-terminus powers vested in her.

7. We have gone through the record. Assessment order speaks that there was no documentary evidence available before the learned AO explaining the source of deposits and investments and that is the reason why the additions were made. There is no denial of the fact that when the assessee sought to produce the additional evidence u/s 46A, learned CIT(A) called for the remand report and after examining the additional evidence proposed by the assessee, learned AO satisfied that all cash deposits and the source of investment in vehicle are fully explained. There is no dispute by the revenue in respect of the CIT(A) accepting the remand report and there cannot be a dispute also. We have gone through

the remand report that forms part of the paper book vide page Nos. 1 to 3 and such remand report is concluded with the statement of the learned AO that having gone through the explanations submitted and evidence produced by the assessee, learned AO was accepting the cash flow statement as genuine and treat source of source of cash deposits in bank and investment in vehicle as fully explained. So the revenue cannot challenge the learned CIT(A) accepting the remand report. It is not clear as to what the learned CIT(A) has to do in exercise of her co-terminus powers. We are unable to understand what further course of action learned CIT(A) was expected to follow when the remand report of the learned AO does not admit of any doubt or raise any suspicion in respect of the deposits and investments. The grievance of the revenue is misconceived in this case. We, therefore, do not find any merit in this appeal and are of the opinion that this appeal is liable to be dismissed. The appeal is accordingly dismissed.

8. In the result, appeal of the Revenue is dismissed.

Order pronounced in the Open Court on 31st October, 2018.

Sd/-

(G.D. AGRAWAL)
VICE PRESIDENT

sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Dated: 31st October, 2018
'VJ'

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

By order

Asstt. Registrar, ITAT

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