

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH (SMC), KOLKATA
[Before Shri P.M. Jagtap, Hon'ble Vice - President]**

**I.T.A. No. 1498/Kol/2018
Assessment Year: 2008-09**

M/s. OM Export (since dissolved).....Appellant
10, Raja Santosh Road, Alipore,
Kolkata -700 027.
[Pan : AABFO 0210 B]

ITO Ward 29(2) Kolkata.....Respondent
Aayakar Bhawan Dakshin,
2, Gariahat Road (South), 4th Floor,
Kolkata - 700 068.

Appearances by:

Shri M. Satnaliwala, FCA appearing on behalf of the Assessee.

Shri Alok Nag, Addl. CIT, Sr. DR appearing on behalf of the Revenue.

Date of concluding the hearing : October 23, 2018

Date of pronouncing the order : November 14, 2018

ORDER

This appeal filed by the assessee is directed against the order of Ld. CIT (Appeals) - 10, Kolkata dated 30.05.2018 whereby he confirmed the addition to Rs. 3,20,000/- made by the A.O. on account of cash deposits found to be made in the bank account of the assessee.

2. The assessee in the present case is a partnership firm which was involved in the business of garment trading. The said business was closed in the year 2007-08. As per the information received by the A.O. from DDIT (INV), the assessee firm had made cash deposits of Rs. 3,20,000/- in its bank account during the year under consideration. He, therefore, issued a notice u/s 148 in response to which the return of income was filed by the assessee on 09.04.2015 declaring a total income of Rs. 38,709/-. During the course of assessment proceedings, the cash deposits of Rs. 3,20,000/- found to be made in its bank account were explained by the assessee as the

capital contribution of the partner made during the year under contribution in cash. The A.O. however did not find the said explanation to be satisfactory. According to him, the partner should have contributed their capital by cheque and it was unbelievable that the partners would contribute their capital in cash. He, therefore, treated the cash deposits of Rs. 3,20,000/- found to be made in the bank account of the assessee as unexplained and made addition to that extent to the total income of the assessee in the assessment completed u/s 143(3)/147 vide an order dated 23.11.2015. On appeal, the Ld. CIT(A) confirmed the said addition made by the A.O. for the same reasons as given by the Assessing Officer. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

3. I have heard the arguments of both the sides and also perused the relevant material available on record. As submitted by the learned counsel for the assessee, the partner who contributed the capital in cash is regularly assessed to tax and her entire capital contribution made in the assessee firm was duly reflected in her balance sheet filed along with the return of income. He has also placed on record the copy of income tax return of the said partner Smt. Kalpana Satnaliwala for A.Y. 2008-09 along with her balance sheet as on 31.03.2008 which clearly shows that the capital contributed by her to the assessee firm was duly reflected in the said balance sheet. Keeping in view this documentary evidence placed on record by the learned counsel for the assessee, I find that the cash deposits of Rs. 3,20,000/- found to be made in the bank account of the assessee were duly explained and there was no justification on the part of the A.O. as

well as the Ld. CIT(A) to reject the explanation offered by the assessee merely on the ground that the partners capital should have been contributed by cheques and not in cash. I, therefore, delete the addition of Rs. 3,20,000/- made by the A.O. and confirmed by the Ld. CIT(A) on this issue and allow this appeal of the assessee.

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

Order Pronounced in the Open Court on 14th November, 2018.

Sd/-

(P.M. Jagtap)
Vice - President

Dated: 14/11/2018

Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. OM Export (since dissolved), 10, Raja Santosh Road, Alipore, Kolkata – 700 027.
2. ITO Ward 29(2), Aayakar Bhawan Dakshin, 2, Gariahat Road (South), 4th Floor, Kolkata – 700 068.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar
ITAT, Kolkata Benches
Kolkata