

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER

ITA No.4659/DEL/2018
Assessment Year: 2010-11

Sh. Jai pal Singh S/o Sh. Mande Lal, 171/9, South Civil Lines, Muzaffarnagar PAN ATYPS4262M	Vs	ITO Ward-1(2) Muzaffarnagar
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Sushil Kumar Tandon, CA
Respondent by	Sh. S.L. Anuragi, Sr. DR

Date of hearing:	27/11/2018
Date of Pronouncement:	28/11/2018

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A), Muzaffarnagar dated 10.04.2018 pertaining to A. Y. 2010-11.

2. Ground No.1 is of general in nature and needs no separate adjudication. With ground No.2 and 3 the assessee has challenged the validity of the assessment framed u/s 147 of the Act. The counsel did not press ground No.2 and 3 and therefore, the same are dismissed as not pressed. The only ground which survives relates the addition of Rs.5,20,000/-.

3. Briefly stated the facts of the case are that the assessee is running a PDS ration dealer shop and filed his return of income for the year on 25.11.2011 showing income at Rs.1,58,480/-. On the basis of the AIR information the Assessing Officer came to know that the assessee has deposited cash of Rs.26.14 lacs in his savings bank account.

4. During the course of the scrutiny assessment proceedings the Assessing Officer asked the assessee to explain the source of the cash deposited in the savings bank account assessee filed a detailed reply but it did not find any favour with the Assessing Officer who was of the opinion that the cash deposited in the savings bank account is more than the turnover of the assessee, therefore, the excess of Rs.813200/- is unexplained and made the addition of the same.

5. Assessee agitated the matter before the CIT(A) and filed a detailed cash flow statement explaining the cash deposited in the savings bank account were out of withdrawals. After verifying the cash statement the CIT(A) partly accepted the contention of the assessee but sustained the addition to the extent of Rs.5.20 lacs.

6. Before me the counsel for the assessee once again referred to the cash flow statement and pointed out that the FAA has grossly erred in not accepting the opening cash in hand which is Rs.5.20 lacs. The DR strongly supported the orders of the authorities below.

7. I have carefully considered the orders of the authorities below. I have also gone through the copies of the bank statement and the cash flow statement which are part of the paper book. There is no dispute that there are frequent withdrawals and deposit in the savings bank account. I find that of Rs. 2 lacs was deposited in cash on 01.04.2009 and another Rs.3.20 lacs was also deposited on 04.04.2009. The cash flow statement shows opening cash in hand of Rs.5.20 lacs. Considering these facts it can be safely concluded that the cash deposited on 01.04.2009 and 04.04.2009 must have come out from the opening cash in hand of Rs.5.20 lacs. Considering these facts I direct the Assessing Officer to delete the addition of Rs.5.20 lacs.

8. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 28.11.2018.

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

NEHA

Date:-28 .11.2018

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	28.11.2018
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	

