

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

BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER

ITA No.687/DEL/2018
Assessment Year: 2009-10

Kiran H. No. 954-I, Sector-9 Karnal – 132001 PAN AOJPK3629N (APPELLANT)	Vs	ITO Ward-2, Karnal Haryana 132001 (RESPONDENT)
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Appellant by	Sh. Vinod Kumar Garg, CA
Respondent by	Sh. S.L. Anuragi, Sr. DR

Date of hearing:	26/11/2018
Date of Pronouncement:	27/11/2018

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A), Karnal dated 01.12.2017 pertaining to A. Y. 2009-10.

2. The only grievance of the assessee is that the CIT(A) erred in confirming the addition of Rs.1425630/- made by the Assessing Officer.

3. Briefly stated the facts of the case are that during the course of the assessment proceedings. The Assessing Officer asked the assessee to explain the source of cash deposit of Rs.29,93,099/- made in the savings bank account during the year under consideration. In her reply the assessee stated that she is not maintaining any books of accounts and is assessed u/s 44 AF of the Act in respect of her income from running Beauty Parlour. It was explained that the cash deposited in the said savings bank account is out of frequent withdrawals from the same bank and also by the sale of live stock. The explanation did not find any favour with the Assessing Officer who calculated the peak cash credit and made the addition of Rs.14,25,630/-.

4. The assessee agitated the matter before the CIT(A) but without any success.

5. Before me the counsel for the assessee vehemently stated that the assessee had furnished complete details of sale of live stocks. It is the say of the counsel that confirmations were filed from the purchasers and the Assessing Officer himself has made necessary enquiries from them.

6. The counsel further pointed out that peak cash credit computed by the Assessing Officer is erroneous and against the facts of the deposits and withdrawals in the savings bank account. Per contra the DR strongly supported the findings of the Assessing Officer.

7. I have carefully considered the orders of the authorities below. There is no dispute that there is frequent withdrawals and deposits in the savings bank account, therefore, it cannot be ruled out that the deposits made in the savings bank account are out of frequent withdrawals made by the assessee. However, peak cash credit is a reasonable yard stick for making the addition but it appears that the calculation done by the Assessing Officer is not correct. I therefore, restore the issue to this extent to the files of the Assessing Officer. The assessee is directed to furnish the correct calculation of peak cash credit and the Assessing Officer is directed to verify the same and decide the issue afresh.

8. In so far as the sale of live stock is concerned the documentary evidences brought on record clearly show that the assessee has sold some live stock for a sale consideration of Rs.7.60 lacs. The documentary evidence furnished by the assessee have been verified by the Assessing Officer during the remand proceedings. Without assigning any specific reason for not accepting the documentary evidences makes the addition to

this extent uncalled for. I therefore direct the Assessing Officer to accept the source of cash deposit out of live stock to the extent of Rs.7.60 lacs. To this extent the assessee gets a relief. The balance addition is set aside to the files of the Assessing Officer for re-adjudication as per directions given here in above.

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

Order pronounced in the open court on 27.11.2018.

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

NEHA

Date:- 27.11.2018

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	26.11.2018
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	

