

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F": NEW DELHI
BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

ITA No. 2003/Del/2015
(Assessment Year: 2005-06)

ITO, Ward-41(2), New Delhi	Vs.	Rakesh Bhatia, Flat No. 32-C, Pocket BG-3, DDA Flats, Pashim Vihar, New Delhi PAN: AAEPB2739H
(Appellant)		(Respondent)

Revenue by :	Shri Surender Pal, Sr. AR
Assessee by:	None
Date of Hearing	01/10/2018
Date of pronouncement	30/11/2018

ORDER

PER PRASHANT MAHARISHI, A. M.

1. This appeal is filed by the revenue against the order of the Id CIT(A)-14, New Delhi dated 29.01.2015 for the Assessment Year 2005-06.
2. The revenue has raised the following grounds of appeal:-
"1. *The Id CIT(A) has erred in deleting the addition of Rs. 8772980/- made by the AO on account of income from undisclosed source.*"
3. The brief facts shows that assessee is an individual who filed his return of income on 31/10/2005 declaring income of INR 2 34248/-. The case of the assessee was selected for scrutiny

under CASS based on the annual information return information that assessee has deposited INR 6351500/- in cash in bank account of the assessee. Notice under section 143 (2) was issued and served on the assessee on 10/8/2006. During the course of assessment proceedings the assessee did not comply with the many of the notices and therefore, the assessing officer passed order under section 144 of the income tax act, 1961.

4. The brief facts of the case shows that assessee has deposited cash of INR 9 125500/- with the syndicate bank. The learned assessing officer obtained the information under section 133 (6) from the syndicate bank also the learned assessing officer noted that assessee has shown business income from trading of electronic items and total turnover is only INR 1 7853924/- and the gross profit of the assessee is only INR 6 32779/-. Therefore, the order under section 144 of the income tax act was passed on 11/12/2007 determining the total taxable income of the assessee of INR 9359750/- against the returned income of INR 2 34250/-, wherein the income from undisclosed sources of the cash deposited in syndicate bank has been added of INR 9 125500/-.
5. Aggrieved with the order, the assessee preferred an appeal before the Commissioner of income tax (appeals) – 14, New Delhi. The learned Commissioner appeals vide order dated 29/1/2015 sustained the addition to the extent of INR 5 60, 000/-. Therefore the learned AO aggrieved with the order has preferred an appeal before us.

6. The learned departmental representative vehemently stated that assessee has deposited a sum of INR 91 lakhs in the bank account in cash and the learned Commissioner of income tax has confirmed the addition only to the extent of INR 560,000 deleting the balance addition merely on the basis of the cash flow statement submitted by the assessee.
7. Despite notice served through the income tax officer, none appeared on behalf of the assessee and therefore the issue is decided on the merits of the case, based on the information available on record.
8. We have carefully considered the contentions of the learned departmental representative in the orders of the lower authorities. The brief facts admittedly shows that assessee has deposited 91,00,000 in the syndicate bank account of the assessee in cash. Before the learned Commissioner of income tax appeals, It was stated that assessee could not remain present before the learned assessing officer. However, on the basis of the bank statement appellant submitted that assessee is a proprietor of S.R.Electronics for which he has maintained the current account in syndicate bank. The appellant used to give cheques to the proprietary concern, which used to be discounted from the bank and the funds were utilised for the proprietary business. Those cheques were shown in its capital account of the proprietary concern and in turn, he used to get cash from the proprietary concern, which were re-deposited in his personal account. Assessee was adopting this practice because of the reason that appellant could take the benefit of 3 to 4 days when the cheques were presented for encashment.

The assessee also submitted a cash reconciliation statement wherein he has shown opening cash in hand of INR 560,000. It was further stated that cash received on sales was INR 5598980/- and further withdrawal from the personal account of INR 29.44 Lacs and withdrawal from syndicate Bank of INR 230,000. The above sum is the source of the fund of INR 9,332,000 out of which the assessee has deposited 6351500/- in syndicate bank savings bank account and Rs 2949000 in personal account with Syndicate bank. Therefore, there is no undisclosed income on account of cash deposit. The learned Commissioner of income tax after the examination of the bank statement along with the personal account of the appellant found that the contention of the appellant is true. It was further noted by him that cheques have been duly discounted by the bank as claimed by the appellant to get the benefit of 2 – 3 days credit from bouncing of the cheque. However the learned Commissioner also noted that a person whose financial condition is so precarious to get the benefit of the small credit used to pay INR 50 or 60 as discounting charges of the bank would have cash in hand of INR 560,000 as an opening balance. In view of this, he confirmed the addition of INR 560,000 out of the whole addition. The learned departmental representative could not controvert the above finding of the learned Commissioner of income tax appeals. In view of the above facts, we do not find any infirmity in the order of the learned Commissioner of income tax appeals who after the detailed verification has deleted the addition. In

view of this, the ground number 1 of the appeal of the learned assessing officer is dismissed.

9. In the result appeal of the learned assessing officer is dismissed.

Order pronounced in the open court on 30/11/2018.

-Sd/-

(AMIT SHUKLA)
JUDICIAL MEMBER

-Sd/-

(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Dated:30/11/2018
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi