

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

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA No. 6839/DEL/2017
[Assessment Year: 2013-14]

Shri Sunil Gupta
4/1733, Bhola Nath Nagar
Shahdara, Delhi

Vs.

The A.C.I.T
Circle 55(12)
New Delhi

PAN: AAOPG 6063 B

[Appellant]

[Respondent]

Date of Hearing : 28.11.2018
Date of Pronouncement : 30.11.2018

Assessee by : Shri Ashwini Taneja, Adv
Shri Saurabh Goyal, CA,
Shri Priyansh Jain, CA

Revenue by : Shri S.L. Anuragi, Sr. DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals]-19, New Delhi dated 25.09.2017 pertaining to assessment year 2013-14.

2. Vide Ground Nos. 1 and 2, the assessee has challenged the jurisdiction of the Assessing Officer in framing assessment u/s 153A of the Income-tax Act, 1961 [hereinafter referred to as 'the Act'].

3. At the very outset, the ld. AR stated that he is not pressing Ground Nos. 1 and 2. The same are dismissed as not pressed.

4. Surviving grounds relate to addition of Rs. 2,99,530/- on account of alleged difference in sales account and secondly, the assessee is further aggrieved by the addition of Rs. 3 lakhs on account of unsecured loan u/s 68 of the Act.

5. During the course of scrutiny assessment proceedings, the Assessing Officer observed that the assessee is engaged in the business of trading and marketing of iron wires. The Assessing Officer found that during the year under consideration, the assessee has shown gross turnover of Rs.

9.80 lakhs with net profit of Rs. 5 lakhs thereby declaring net profit rate of 51.20%.

6. The Assessing Officer further noticed that the assessee has shown additional sales of Rs. 5.85 lakhs. This was in addition to the turnover of Rs. 9.80 lakhs on which the assessee has returned net profit ratio of 51.20%. The Assessing Officer was of the firm belief that on this additional sale of Rs. 5.85 lakhs, the assessee must have earned net profit of 51.20%. The Assessing Officer, accordingly, made addition of Rs. 2,99,520/- on the additional sales shown by the assessee in his statement of affairs dated 27.12.2016.

7. I have carefully considered the observations of the Assessing Officer. I do not find any error or infirmity in the observations/findings of the Assessing Officer. The addition of Rs. 2,99,520/- is, accordingly, confirmed.

8. The Assessing Officer found that the assessee has taken loans from Shri Nirmal Kumar Rs. 2 lakhs and Shri Shiv Kumar Rs. 1 lakh. The Assessing Officer doubted the creditworthiness and genuineness of the loan creditors and accordingly, made addition of Rs. 3 lakhs. Additions made by the Assessing Officer are solely based upon the returned income shown by these two persons in their respective returns of income.

9. Before me, the ld. AR drew my attention to the confirmations filed by these two persons. Their copy of bank statements were referred alongwith with their affidavits. It is the say of the ld. AR that the assessee has successfully discharged the initial onus cast upon him by the provisions of section 68 of the Act.

10. Per contra, the ld. DR supported the findings of the Assessing Officer.

11. I have given thoughtful consideration to the orders of the authorities below. I have also gone through the relevant documentary evidences brought to my notice during the course of proceedings which are part of the paper book. The assessee has not only filed confirmations from these two persons but has also placed their respective bank statements. I find loan transactions in the bank statements and I do not find any cash deposited by these persons before issuing cheques to the assessee. Therefore, it cannot be said that the assessee has purchased cheques by giving cash to these two persons. Both the persons are assessed to tax which has been accepted by the Assessing Officer.

12. A perusal of the bank statement clearly establishes their credit worthiness and since the transaction has been done through banking channel, genuineness thereof cannot be doubted with. Considering the facts in totality, I do not find any reason for making addition u/s 68 of the Act. Addition of Rs. 3 lakhs is directed to be deleted.

5. In the result, the appeal filed by the assessee in ITA No. 6839/DEL/2017 is partly allowed.

The order is pronounced in the open court on 30.11.2018.

Sd/-

[N.K. BILLAIYA]
ACCOUNTANT MEMBER

Dated: 30th November, 2018

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
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	
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Date on which the file goes to the Head Clerk	
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