

आयकर अपीलीय अधिकरण "एक-सदस्य मामला" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT
AND SHRI VIKAS AWASTHY, JM

आयकर अपील सं. / ITA No.2506/PUN/2017
निर्धारण वर्ष / Assessment Year : 2014-15

Khumaram Bhanaramji Choudhary,
Shop No. 2, J.J. Complex,
Tingare Nagar, Vishrantwadi,
Pune - 411015

PAN : AIBPC0121D

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward - 7(4), Pune

.....प्रत्यर्थी / Respondent

Assessee by : S/Shri Nikhil Pathak & P.D. Kudwa
Revenue by : Shri M.K. Verma

सुनवाई की तारीख / Date of Hearing : 08-01-2019

घोषणा की तारीख / Date of Pronouncement : 09 -01-2019

आदेश / ORDER

PER VIKAS AWASTHY, JM :

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-5, Pune dated 13-07-2017 for the assessment year 2014-15.

2. The brief facts of the case as emanating from records are: The assessee is a proprietor of M/s. Laxmi Hardware and Elec., engaged in the

business of trading in hardware items. The assessee filed his return of income or the impugned assessment year on 02-07-2015 declaring total income of Rs.2,67,021/-. The case of the assessee was selected for scrutiny under CASS, consequently, statutory notice u/s. 143(2) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") was issued to the assessee on 27-07-2016. During scrutiny assessment proceedings, the Assessing Officer observed that there were cash deposits to the tune of Rs.16,10,000/- in the bank account of assessee maintained with Shivajirao Bhosale Sahakari Bank Ltd. The assessee explained that out of these cash deposits Rs.2,20,000/- were received by the assessee from his father as gift and Rs.2,50,000/- was on account of recovery of loans and advances given in earlier assessment years. However, the Assessing Officer rejected the explanation furnished by the assessee and made addition of the entire amount.

Aggrieved by the addition made in the assessment order dated 22-12-2016, the assessee filed appeal before the Commissioner of Income Tax (Appeals). During First Appellate proceedings the assessee gave details of loans and advances recovered by the assessee and also gave details of cash deposits in the bank. However, the Commissioner of Income Tax (Appeals) also disbelieved explanation furnished by the assessee and confirmed the addition made by the Assessing Officer. Now, the assessee is in second appeal before the Tribunal.

3. Shri Nikhil Pathak along with Shri P.D. Kudwa appearing on behalf of the assessee submitted that the addition of Rs.16,10,000/- on account of unexplained cash deposits in the bank includes :

- | | |
|-------------------------------|----------------|
| i. Opening cash balance | Rs.55,905/-. |
| ii. Gift received from father | Rs.2,20,000/-. |

iii.	Amount received from loans and advances	Rs.2,50,000/-.
iv.	Cash deposits out of withdrawals from bank	Rs.8,00,000/-.
v.	Cash out of business cash receipts	Rs.2,84,095/-.
	Total	Rs.16,10,000/-

3.1 The ld. AR referred to Balance Sheet of the assessee as on 31-03-2013 at page 13 of the paper book to show that the amount of Rs.2,50,000/- as Loans and Advances was duly reflected in the Balance Sheet for the immediately preceding financial year. During the period relevant to the assessment year under appeal the assessee has received back this amount of Rs.2,50,000/-. The ld. AR further referred to bank statements at pages 16 and 17 of the paper book to show that the amount of Rs.8,00,000/- withdrawn on 26-04-2013 Rs.3,00,000/- and Rs.5,00,000/- withdrawn on 30-04-2013 was deposited by the assessee on three occasions subsequently, i.e. Rs.3,00,000/- on 09-05-2013, Rs.4,50,000/- on 30-05-2013 and Rs.50,000/- on 05-07-2013. The ld. AR further submitted that remaining amount of Rs.2,84,095/- were cash deposits on various dates out of business cash receipts.

4. On the other hand Shri M.K. Verma representing the Department vehemently defended the findings of Commissioner of Income Tax (Appeals) in confirming the addition.

5. We have heard the submissions made by representatives of rival sides and have perused the orders of authorities below. The solitary issue raised by the assessee in appeal is against addition of Rs.16,10,000/- on account of unexplained cash credits in the saving bank account of the assessee. The ld. AR has referred to the chart furnished before the

Commissioner of Income Tax (Appeals) giving breakup of the amounts deposited during the period relevant to the assessment year under appeal.

For the sake of convenience the same is reproduced here-in-below :

Sr. No.	Particulars	Amount (Rs.)
1	Opening Cash as on 1.4.2013	55,905/-
2	Gift Received from father	2,20,000/-
3	Amount received from Loans and Advances	2,50,000/-
4	Cash Deposited out of Cash withdrawn from Bank	8,00,000/-
5	Cash Deposited out of business cash receipts	2,84,095/-
	Total	16,10,000/-

6. The ld. AR has pointed that out of aforesaid amount Rs.2,50,000/- is the recovery of loans and advances made in the earlier assessment years. The ld. AR has pointed that the amount of Rs.2,50,000/- was shown under the head Loans and Advances in the Balance Sheet as on 31-03-2013. We further observe that this amount of Rs.2,50,000/- is not appearing in the Balance Sheet as on 31-03-2014 as the amount has been recovered by the assessee. The assessee has been able to substantiate that the amount of Rs.2,50,000/- is on account of recovery of Loans and Advances.

As regards cash deposit of Rs.8,00,000/- the ld. AR of assessee has drawn our attention to the bank statement at pages 16 and 17 of the paper book. A perusal of bank statement shows that there were withdrawals of Rs.3,00,000/- on 26-04-2013 and Rs.5,00,000/- on 06-05-2013. There were also deposits of Rs.3,00,000/-, Rs.4,50,000/- and Rs.50,000/- on 09-05-2013, 30-05-2013 and 05-07-2013, respectively. The proximity of date of withdrawals and deposits give sufficient room for presumption

that the amounts deposited were the same which were earlier withdrawn by the assessee from the bank account.

Another figure which appears in the addition is Rs.2,84,095/- i.e. cash deposits out of business cash receipts on various dates. It is an undisputed fact that the assessee is engaged in trading of hardware items. It is not uncommon that cash receipts in normal business operations are deposited in the bank by the traders. Therefore, we do not find any reason to sustain the said amount as unproved cash credits.

7. As regards gift received from father Rs.2,20,000/- except for bald assertions made by the assessee there is no documentary evidence to support such contentions. In the absence of any cogent documentary evidence the addition of Rs.2,20,000/- on account of alleged gift from father cannot be accepted.

8. Thus, the addition on account of unproved cash credits is restricted to Rs.2,20,000/- only. The assessee gets relief of Rs.13,90,000/-. The appeal of assessee is partly allowed in the terms aforesaid.

9. In the result, the appeal of assessee is partly allowed.

Order pronounced on Wednesday, the 09th day of January, 2019.

Sd/-
(R.S. Syal)
VICE PRESIDENT

Sd/-
(Vikas Awasthy)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 09th January, 2019

RK

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(A)-5, Pune
4. The Pr. Commissioner of Income Tax-4, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य मामला" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

// True Copy //

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary,
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune