

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR

BEFORE SH. SANJAY ARORA, ACCOUNTANT MEMBER AND
SH. N.K.CHOUDHRY, JUDICIAL MEMBER

ITA No.193(Asr)/2016

Assessment Year:2009-10

Sh. Ravinder Singh Mahl
VPO Sultanwind Patti Balol ki,
Amritsar.

Vs.

Income Tax Officer,
Ward-3(3), Amritsar

[PAN:AXXPS1154P]

(Appellant)

(Respondent)

Appellant by: Sh. A.R. Dogra (Ld. Adv.)
Respondent by: Sh. Charan Dass (Ld. DR)

Date of hearing: 20.12.2018

Date of pronouncement: 21.01.2019

ORDER

PER N.K.CHOUDHRY, JM:

This appeal has been preferred by the Assessee/Appellant against the order dated 25.01.2016 passed by the Ld. CIT(A), Amritsar, u/s 250(6) of the I.T. Act, 1961 (hereinafter called as 'the Act').

2. The brief facts of the case are that the assessee had filed his return of income by declaring an income of Rs.1,15,000 and short term loss from shares and agricultural income to the tune of Rs.4,95,000/-, however, the Assessing Officer made an addition of Rs.7,84,900/- on account of deposits made on different dates in Saving Bank Account No.0338-0100-0173 maintained by the assessee with ICICI Bank by treating the said deposits made from the undisclosed income.

3. The assessee on being aggrieved against the assessment order preferred the first appeal before the Ld. CIT(A) by raising the issue that

AO was not justified in making in addition of Rs.7,84,900/- considering the same as an alleged income from undisclosed source. Further, it was also evered that the AO has not considered the documents filed before him properly and made an addition without proper examination and documents forming part of the assessment records. The Ld. CIT(A) partly allowed the appeal of the assessee by considering the explanation of the assessee. The concluding part of the order is reproduced herein below.

“6. I have gone through the grounds of appeal, submission and assessment order.

Ground No.1 is general in nature.

Ground No.2- *the assessee has claimed the opening balance of cash as Rs.995582/- as against Rs.512772/- as taken by AO. The assessee has submitted that other than 512772/- the assessee has also shown income to the tune of Rs.514450/- for the A.Y. 2008-09 and hence the opening balance was Rs.995582/-.*

I am not in agreement with the explanation given by the assessee as the assessee has not accounted for household expenses and the agricultural expenses. The difference between 102722 (512772+514450) and 995582 is only Rs.31640/-. The said amount is not sufficient enough to cover the household and agricultural expenses of wheat crop for which the income has been booked on 28.04.2009. Hence, the action of the AO to take the opening balance as Rs.512772 is correct and hence confirmed.

From the perusal of the cash flow statement as given by the assessee it is noted that the cash balance as on 21.11.2008 was Rs.6816.16. This balance is when the opening balance has been taken as 995582 Rs. Once the opening balance is taken as Rs.512772/- there will be unexplained cash on 21/11/2008 for Rs.475994/- (995582-512772-6816). Further in the entire cash flow no

amount has been used for household drawings. Thus a very modest amount of Rs.48000/- for household drawings is also taken as unexplained. Thus the total addition will come as.

*Negative cash as on 21/11/2008=475994
Add: household drawings=48000
Total= 523994*

7. *Thus the appeal is partly allowed.”*

3. The assessee on being aggrieved against the order impugned herein passed by the Id. CIT(A) preferred the instant appeal which is under consideration.

4. Having heard the parties and perused the material available on record. It appears from the documents that the assessee had filed copy of passport of the Assessee to explain the necessity of deposits and withdrawals of cash from bank, copy of letter dated 27.01.2010 and call for Visa interview, copy of letter dated 21.04.2009 intimating the refusal of issue of Visa, copy of letter dated 24.06.2009 rejecting the appeal for issue of Visa, copy of cash flow statement and copy of ledger account as well as the order passed dated 26.02.2014 passed by the Id. CIT(A) for A.Y. 2008-09. Although, the lower authorities have considered the documents, however, did not allow the claim of the assessee and ***particularly the Id. CIT(A) who has passed the order impugned herein observed that he is not in agreement with the explanation given by the assessee as the assessee has not accounted for household and agriculture expenses and the difference between 1027222 (512772 + 514450) and 995582 is only 31640/- and therefore, the said amount is not sufficient enough to cover the household and agriculture expenses of wheat crops for which***

the income has been booked on 28/04/2009. Hence, the action of the AO to take the opening balance as Rs.512772 is correct and confirmed. In our considered view the claim of the assessee to the effect that cash flow statement filed during the assessment year 2008-09 clearly shows the amount of Rs.5,12,772/- as cash in hand balance as on 31.03.2008 and the said cash in hand does not include the income of Rs.5,14,445 declared in A.Y.2008-09. The assessee has rightly taken the amount of Rs.9,95,582/- as opening balance and therefore, he was having sufficient cash in hand during the year 2009-10 to the tune of Rs.11,22,772/- which was taken into consideration by the Assessing Officer. Hence, once it is determined that the assessee had sufficient amount cash in hand to deposit in its Bank Account then the authority cannot draw the adverse inference. Even the similar addition of Rs.6,81,450/- was also made in the preceding Assessment Year 2008-09 which was deleted by the Id. CIT(A) vide its order dated 26.02.2014. Hence, even otherwise in order to follow the rule of consistency, the assessee is entitled to get the relief as prayed for. Hence, we do not have any hesitation to delete the addition affirmed by the Ld. CIT(A).

In the result, the additions of Rs.4,75,994 and Rs.48,000/- as affirmed by the Ld. CIT(A) are deserves to be deleted, hence deleted.

6. In the result, the appeal filed by the assessee stands allowed.

Order pronounced in the open Court on 21.01.2019.

Sd/-
(SANJAY ARORA)
ACCOUNTANT MEMBER

Sd/-
(N.K.CHOUDHRY)
JUDICIAL MEMBER

Dated:21.01.2019
/PK/ Ps.

Copy of the order forwarded to:

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Amritsar
- (2) ITO, Ward 3(3), Amritsar
- (3) The CIT(A), Amritsar
- (4) The CIT concerned
- (5) The SR DR, I.T.A.T., Amritsar

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