

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR**

BEFORE SH. N. S. SAINI, ACCOUNTANT MEMBER  
AND SH. N. K. CHOUDHRY, JUDICIAL MEMBER

**I. T. A. Nos. 516 & 517/(Asr)/2015**  
Assessment Year: 2005-06 & 2006-07

Shri Rajiv Kumar,  
64-E, Rani Ka Bagh,  
Amritsar

Vs. Income Tax Officer,  
Ward-5(3), Amritsar

PAN No. AAZPK1231R  
**(Appellant)**

**(Respondent)**

Appellant by : Sh. K.R. Jain, Advocate  
Respondent by: Sh. Bhawani Shankar, DR

Date of Hearing : 11.2.2019  
Date of Pronouncement : 14.2.2019

**ORDER**

**Per N.S. SAINI, AM:**

These are the appeals filed by the assessee against the Order of Commissioner of Income Tax (Appeals), Amritsar, dated 31.7.2015.

2. In both the years in appeal, the assessee has taken additional grounds of appeal, which reads as under:-

- 1. That the AO has erred in law and on facts while initiating proceeding u/s 147 of the Income Tax Act.*
- 2. That despite specific requests the reason/s of initiating the proceeding u/s 147 has not been supplied.*
- 3. That this is a legal ground and no fresh information is required for deciding this ground.*

*4. The appeal is fixed for hearing before the Hon'ble Bench on  
14<sup>th</sup> January 2016.*

2. At the time of the hearing, the AR of the assessee submitted that he does not press the additional grounds raised in the appeals, hence, they are dismissed for want of prosecution.

3. The common ground of appeal taken in both the years under appeal is that the CIT(A) erred in confirming the ad of Rs. 1,79,500/- for the Assessment Year 2005-06 and Rs. 85,000/- for the Assessment Year 2006-07 for cash deposits made by the assessee in the bank account No. 0115100015685 in HDFC bank Ltd, The Mall, Amritsar.

4. The brief facts of the case are that the AO observed that the assessee has made cash deposits in the bank account No. 00151000154685 maintained with HDFC Bank, The Mall, Amritsar of Rs. 8,60,783/- in the Assessment Year 2005-06 and Rs. 8,89,670/- in the Assessment Year 2006-07. The assessee did not comply with the notices issued and, therefore, the source of the deposits could not be verified by him, hence, he added the same to the income of the assessee.

5. On appeal before the Ld. CIT(A), the assessee submitted that the perusal of the bank accounts it will show that most entries of deposits in the bank account are of small amounts of cash deposits which are explainable. It was submitted that the assessee was acting as an agent to exporters M/s M.K. International and M.K. Agri International, D-19, Greater Kailash –II, New Delhi. The company purchased rice

from Food Corporation of India in Punjab and the role of the assessee was to take delivery of rice from Food Corporation of India and to dispatch to destination. The company transferred funds to the assessee to pay freight, local charges and other incidental expenses. The assessee was only paid service charges and the amount were transferred in his account and withdrawn within one or few days of reimbursement of labour and other incidental expenses on behalf of the principle. Hence, it was submitted that the AO was factually wrong in stating that cash amounting to Rs. 8,60,783/- was deposited in the bank account in Assessment Year 2005-06 and Rs. 8,89,670/- was deposited in the bank account in Assessment Year 2006-07 when credit of funds transferred through banks amounting to Rs. 6,16,364/- in the Assessment Year 2005-06 and Rs. 7,09,001/- in the Assessment Year .

6. It was further argued that maximum peak amount during the year 2005-06 was Rs. 2,02,856/- and in the Assessment Year 2006-07 and was Rs. 4,08,152/-, while the peak balance during the period 7.1.2006 to 31.3.2006 amounted to Rs. 1,01,787/- and during the period 7.1.2007 to 31.3.2007 amounted to Rs. 2,02,856/- and, therefore, the maximum addition in the Assessment Year 2005-06 could be made of Rs. 1,01,069/- and in the Assessment Year 2006-07 of Rs. 2,05,296/-.

7. The CIT(A) dismissed the submissions of the assessee on the ground that the assessee had not given any working of the peak cash amount of Rs. 2,02,856/- in the Assessment Year 2005-06 and Rs. 2,05,296 in the Assessment Year 2006-07.

8. The CIT(A) observed that in the Assessment Year 2005-06 and 2006-07, the following credit entries in the bank account with the narrations given below were transferred entries / deposits by cheques:-

**Assessment Year: 2005-06**

Date	Amount(Rs.)	
03-04-2004	17,000/-	Funds transfer – 1152560004209
29-04-2004	165,000	Funds transfer 0272320001433
12-5-2004	50,000/-	funds transfer –Chandigarh 0272320001433
02-06-2004	100,000	funds transfer – GK II, Delhi01272320001433
14-06-2004	20,000/-	funds transfer – GK-II Delhi 01272320001433
03-07-2004	20,000/-	Funs transfer – GK II 01272320001433
06-07-2004	200,000/-	funds transfer Lajpat Nagar Delhi 02942320000097
28-09-2004	6000/-	Funds transfer-Amritsar 11525600004209
06-02-2004	12,515/-	Chq dep-MICR CLG-Amritsar
03-12-2004	11,415/-	Chq Dep – MICR BR-DEL
10-12-2004	5000/-	Funds tran – Amritsar 11525600004209
20-12-2004	3434/-	Rayya – Pheriphery LOC for Amritsar BR
07-01-2004	6000/-	Chq dep – MICR CLG- Service BR CHA
Total	616,364	

**Assessment Year: 2006-07**

Date	Amount (Rs)	
23-05-2005	3494/-	Chq dep-MICR CLG-Amritsar
27-06-2005	13,000/-	Funds transfer-Amritsar 1152560004209
28-06-2005	3350/-	Chq dep-MICR CLG - Amritsar

10-08-2005	10,000/-	Funds transfer-New Delhi 2711140000237
11-08-2005	20,000/-	Funds transfer-Lajpat Nagar 2942320000097
01-10-2005	225,860/-	Chq dep-MICR CLG – Clearing BR- Del
22-10-2005	408,152/-	Chq dep-MICR CLG – Clearing BR- Del
26-10-2005	1000/-	Funds transfer-New Delhi 0271050124511
13-01-2006	22,579/-	Chq dep-MICR CLG – Amritsar
27-03-2006	1566/-	Funds tran-Amritsar
<b>Total</b>	<b>709,001/-</b>	

Therefore, he held that since the aforesaid deposits totaling of Rs. 6,16,364/- in the Assessment Year 2005-06 and Rs. 7,09,001/- in the Assessment Year 2006-07 in Account No. 011000154685, HDFC Bank, The Mall Amritsar were by way of transfer entries / cheque deposits, therefore, the AO was unjustified in treating the same as cash deposits and making the additions. Accordingly, he deleted the additions of Rs. 6,16,364/- in the Assessment Year 2005-06 and Rs. 7,09,001 in the Assessment Year 2006-07. Thereafter, the CIT(A) observed that the appellant made following cash deposits / withdrawals in the said bank account in the HDFC bank wherefrom the peak cash balance of Assessment Year 2005-06 and 2006-07 worked out as under:-

**Assessment Year 2005-06**

Date	Withdrawal (Rs.)	Deposits (Rs.)	Credit Balance
01-04-2004		Opening Balance	8196/-
23-04-04		14,000/-	22,196/-
26-04-04		6000/-	28,196/-

01-06-04		<u>16,000/-</u>	44,196/-
01-06-04		<u>16,000/-</u>	60,196/-
01-06-04		<u>16,000/-</u>	76,196/-
09-06-04		<u>15,000/-</u>	91,196/-
02-09-04		<u>23,000/-</u>	114,196/-
16-09-04		<u>20,000/-</u>	134,196/-
06-10-04	5000/-		129,196/-
30-10-04		<u>15,000/-</u>	144,196/-
10-11-04		<u>5500/-</u>	149,696/-
08-01-04		<u>10,000/-</u>	159,696/-
07-02-04		<u>8000/-</u>	167,696/-
<b>21-02-04</b>		<b><u>20,000/-</u></b>	<b>187,696/-</b>

### Assessment Year 2006-07

Date	Withdrawal(Rs)	Deposits (Rs)	Credit
01-04-2005		Opening Balance	5300/-
05-04-05		19,000/-	24,300/-
07-05-05		14,000/-	38,300/-
22-06-05		11,000/-	49,300/-
02-07-05		4000/-	53300/-
06-07-05		16,000/-	69,300/-
23-07-05		8000/-	77,300/-
10-08-05		10,000/-	87,300/-
05-11-05		3000/-	90,300/-

9. He observed that the maximum peak cash credit balance in the Financial Year 2004-05 was Rs. 1,87,696/- on 21.2.2014 and the maximum peak cash credit balance during the Financial Year 2005-06 was Rs. 90,300/- as on 5.11.2005. He observed that the Appellant claim that the peak credit balance is covered within the returned income filed by the assessee but as the Appellant has not been able to substantiate the source of the above cash deposits in the said bank account, therefore, no credit in the return of income is being allowed to the appellant, hence, he confirmed the addition of Rs.

1,79,500/- in Assessment Year 2005-06 and Rs. 85,000/- in the Assessment Year 2006-07.

10. Before us, the AR of the assessee submitted that the assessee is filing return of income regularly since Assessment Year 2003-04. He filed a table for giving the assessment order wise details of gross total income and net income placed at page 30 of the paper book which is as under:-

Sr. No.	Assessment Year	Gross Income	Net Income
1	2003-04	1,68,860/-	1,68,860/-
2	2004-05	1,83,920/-	1,83,920/-
3	2005-06	1,65,750/-	1,65,750/-
4	2006-07	2,52,350/-	2,45,291/-
5	2007-08	3,99,430/-	2,99,430/-
6	2008-09	1,45,760/-	1,45,760/-
7	2009-10	3,42,830/-	2,42,830/-
8	2010-11	3,83,490/-	3,52,310/-
9	2011-12	4,12,650/-	3,44,340/-
10	2012-13	4,72,830/-	3,91,690/-

11. He submitted that the assessee was having income in earlier years as evidenced in the return of income and, therefore, the assessee deposited the cash in the bank account in Assessment Years 2005-06 and 2006-07 out of incomes of earlier Assessment Years i.e for 2004-05 at Rs. 1,83,920/- and for Assessment Year 2003-04 at Rs. 1,68,860/-, therefore, the addition made should be deleted.

12. The DR, on the other hand, supported the orders of the lower authorities.

13. In the above facts and circumstances of the case and after hearing the rival submissions, we are of the considered opinion, that the arguments of the Revenue that the assessee could not have any savings out of income earned in the immediately

preceding Assessment Years 2004-05 and 2003-04 are against real life facts. The assessee will definitely have some savings out of the past years income. It is seen that the assessee had shown net income of Rs. 1,68,860/- in the Assessment Year 2003-04 and Rs. 1,83,920/- in the Assessment Year 2004-05. Thus, we estimate the savings of the assessee in the Assessment Year 2003-04 at Rs. 85,000/- and also in the Assessment Year 2004-05 at Rs. 87,000/-. According, we allow deduction on account of deposit in the bank of Rs. 85,000/- in the Assessment Year 2005-06 and confirm the addition of Rs. 92,500/- for the Assessment Year 2005-06. Similarly, we allow credit for deposit in the bank account out of past year savings of Rs. 85,000/- in the Assessment Year 2006-07 and delete the addition of Rs. 85,000/-. Thus, the grounds of appeal of Assessment Year 2005-06 is partly allowed and for the Assessment Year 2006-07 is allowed.

14. In the result, the appeal for Assessment Year 2005-06 stands partly allowed, whereas, the appeal for Assessment Year 2006-07 stands allowed.

Order pronounced in the open court on 14.2.2019.

Sd/-  
**(N. K. Choudhry)**  
**Judicial Member**

Sd/-  
**(N.S. Saini)**  
**Accountant Member**

Date: 14.02.2019

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Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT(Appeals)
- (4) The CIT concerned
- (5) The Sr. DR, I.T.A.T.