

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC B” BENCH : BANGALORE

BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT

| |
|---------------------------|
| ITA No.59/Bang/2019 |
| Assessment year : 2015-16 |

| | | |
|---|-----|--|
| Shri Sanjeev Baburao Dhuli, # 05, Near Fish Market, Yellapur Road, Haliyal – 581 329. Uttara Kannada District. PAN: AEPPD 8602N | Vs. | The Income Tax Officer, Ward 2(3), Hubballi. |
| APPELLANT | | RESPONDENT |

| | | |
|---------------|---|-------------------------------|
| Appellant by | : | Ms. B.S. Vimala, CA |
| Respondent by | : | Shri Rajendra Chandekar, JCIT |

| | | |
|-----------------------|---|------------|
| Date of hearing | : | 29.01.2019 |
| Date of Pronouncement | : | 20.02.2019 |

ORDER

This appeal by the assessee is against the order dated 23.10.2018 of the CIT(Appeals), Hubballi relating to assessment year 2015-16.

2. The assessee is an individual. He carries out civil contract work at Haliyal. For the AY 2015-16 he filed return of income declaring total income of Rs.5,40,130. The AO did not dispute the fact that the assessee carried out Govt. Civil contract works of the value of Rs.6,24,053 on which he declared 8% income amounting to Rs.49,925. The assessee also undertook private contract works worth Rs.63,90,000 on which he declared

8% as his income amounting to Rs.5,11,200. All the details were furnished by the assessee before the AO and they were verified.

3. The AO noticed that the assessee had made deposits in his bank account in cash. When asked to explain the source of cash deposits in the bank account, the assessee attributed the same to the contract receipts which were deposited and withdrawn as per the requirements. The AO, however, refused to accept the explanation of the assessee and he held that only income from executing the contract works can be explained as source and not the gross contract receipts. The AO, thereafter, proceeded to work out the peak cash credit and made an addition of Rs.30,03,639 to the income returned by the assessee on the following basis:-

“ The Peak cash credit as worked out above is Rs. 52,50,000/-. Out of this credit is to be given as under

The assessee has joint agriculture lands with his brother for which copies of Record of Rights have been furnished. Further, he has produced agricultural sale bills amounting to Rs. 10,85,161/- which has been stated to have been deposited in his bank account. Another receipt of Rs. 4,39,906/- stated to have been received from EID Parry (India) Limited, India for supply of Sugar cane has been furnished. As this amount has been credited directly by the company into the bank account of his brother Shri. Raju Babu Dhuli no credit can be given. A total of Rs. 10,85,161/- is allowed as Agricultural income from joint holdings with his brother.

ii. The assessee has stated that he has taken up some private works amounting to Rs. 63,9,000/-. Details for the same have been furnished by the assessee. 8% of the same is allowed as Contract receipts from private works amounting to Rs. 5,11,200/- . The assessee has also stated that he has received advances from Private contracts amounting to Rs. 6,50,000/- for which evidences has been furnished. Totally a sum of Rs. 11,61,200/- is allowed as Cash Credits.

The peak cash credit worked out is Rs. 52,50,000/- and deduction of Rs.22,46,361/- (11,61,200/- + 10,85,161/-) is allowed and the balance of Rs. 30,03,639/- is added back as unexplained Cash Credits to the total income of the assessee.”

4. On appeal by the assessee, the CIT(Appeals) confirmed the order of AO.

5. I have heard the submissions of the Id. Counsel for the assessee, who submitted that the source of deposit in the bank account is attributable to receipts from execution of civil contracts. The revenue authorities were not justified in ignoring the said source available to assessee. The source of receipts from Govt. and private contracts has been accepted by the AO and in such circumstances the addition was made without any basis.

6. The Id. DR relied on the order of CIT(Appeals).

7. I have considered the rival submissions and am of the view that the addition made in the facts and circumstances of the case cannot be sustained. The admitted position is that the assessee executed Govt. and private contracts worth Rs.63,90,000 + Rs.6,24,053. Though the assessee has not filed the cash flow statement regarding receipts from execution of contracts and outflow of cash, yet the fact remains that the assessee had huge receipts from execution of contracts and the sum deposited in the bank account can be explained as receipts from the contract business. I am of the view that the AO and the CIT(Appeals) were not justified in giving credits only for the profits earned from contract business at 8% of the receipts from contracts. I therefore delete the addition made by the AO and allow the appeal of the assessee.

8. In the result, the appeal of the assessee is allowed.

Pronounced in the open court on this 20th day of February, 2019.

Sd/-

(N.V. VASUDEVAN)
VICE PRESIDENT

Bangalore,
Dated, the 20th February, 2019.

/ Desai Smurthy /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar,
ITAT, Bangalore.