

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES "D" : DELHI

BEFORE SHRI G.D. AGARWAL, VICE PRESIDENT  
AND  
SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.No.4753/Del./2015  
Assessment Year 2011-2012

Mr. Ravinder Tyagi, House No.271, Hastal Village, Uttam Nagar, New Delhi. PAN AGWPT1442K	vs.	The Income Tax Officer, Ward – 26(3), New Delhi.
(Appellant)		(Respondent)

For Assessee :	Shri Ved Jain, Advocate, Shri Ashish Goel, Ms. Surbhi Goyal, C.As.
For Revenue :	Shri J.K. Mishra, CIT.D.R.

Date of Hearing :	12.04.2019
Date of Pronouncement :	16.04.2019

**ORDER**

**PER BHAVNESH SAINI, J.M.**

This appeal by Assessee has been directed against the Order of the Ld. CIT(A)-15, Delhi, Dated 25.05.2015, for the A.Y. 2011-2012, challenging the addition of Rs.15,37,400/- on account of deposit in bank account maintained with Oriental Bank of Commerce.

2. Briefly the facts of the case are that return of income declaring income at Rs.1,82,070/- was filed by the assessee on 31.07.2012. In this case, AIR information was received about the assessee having made cash deposits of Rs.15,37,400/- and Rs.11,61,500/- in his S.B. Account with Oriental Bank of Commerce and Allahabad Bank respectively. The same was not disclosed in his return of income. Hence, the case was reopened and notice under section 148 was served upon the assessee. The assessee submitted that he was engaged in business of retail trading of cotton fabrics and the cash deposits in his bank accounts were out of sale turnover effected during the financial year and payments received from outstanding debtors. However, the assessee failed to furnish evidences to substantiate its claim with regard to cash deposited in his bank accounts. The A.O. accordingly made the addition of Rs.26,98,900/- treating the same as unexplained cash deposits under section 68 of the I.T. Act, 1961.

3. The assessee challenged the addition before the Ld. CIT(A). Written submissions of the assessee is

reproduced in the appellate order, in which the assessee briefly explained that assessee declared income of Rs.1,82,070/- under different heads of income which includes Income from Business and Profession Rs.2,03,877/-, Income from other sources, Bank interest of Rs.4,386/- and Miscellaneous Income of Rs.17,500/-, totaling to Rs.2,25,763/- and after claiming deduction of Rs.43,690/-, assessee declared income of Rs.1,82,073/-. The assessee also declared agricultural income of Rs.1,62,552/-. The assessee stated that cash deposits in the Bank accounts is out of the sale turnover of the assessee effected during the year and from payments received from outstanding debtors. It was also submitted that A.O. has failed to consider sufficient details filed on record, which are copies of the Bank statements and both Bank Accounts, income was declared under section 44AD, copy of the computation of income, copy of the statement of affairs for the year under appeal and preceding year, copy of cash flow statement etc. Additionally, assessee also filed statement of affairs for the assessment year under appeal as well as

preceding assessment year, details of turnover, details of sales made in the year under appeal and preceding assessment year along with purchases, supported by sale bills, purchase bills, cash flow statement and summary of the sundry debtors and creditors. The A.O. never asked for any documents from the assessee and also failed to verify the documents filed by assessee. It was submitted that since assessee filed return of income under section 44AD of the I.T. Act, 1961, therefore, he was not required to maintain books of account. The assessee, therefore, explained that both the additions are wholly unjustified. The Ld. CIT(A), considering the explanation of assessee, deleted the addition of Rs.11,61,500/-. The Ld. CIT(A), however, confirmed the addition of Rs.15,37,400/-. The Ld. CIT(A) noted that assessee failed to explain this addition and failed to prove that it was collected with business activity of the assessee.

4. Learned Counsel for the Assessee, reiterated the submissions made before the authorities below and submitted that assessee filed complete details i.e., sales,

purchases and details of debtors, which would prove that assessee was doing business activities and declared income under section 44AD of the I.T. Act, 1961, therefore, no books of account were required to be maintained. In preceding A.Y. 2010-2011, assessee had an income below taxable limit, therefore, no return was filed. PB-2 is computation of income to show bank interest which was offered for taxation from both the Banks i.e., Allahabad Bank and Oriental Bank of Commerce. PB-4 is balance-sheet of the assessee for preceding A.Y. 2010-2011 in which both the above accounts have been shown. PB-5 is details of sales. PB-6 is cash flow statement in which also both Bank Accounts have been shown. PB-9 is bank statement of Oriental Bank of Commerce. Learned Counsel for the Assessee submitted that A.O. made addition of the Bank deposits, but, failed to consider that there are withdrawals on several occasions, which includes the amount of Rs.2,02,000/- and Rs.4 lakhs on different occasions for which no benefit have been given. He has, therefore, submitted that withdrawal should also been considered by

the A.O. as these Bank Accounts coming from earlier years which pertains to business activities of the assessee. PB-19 is reply filed before A.O. along with complete details of sales, purchases and debtors. PB-87 is details of the debtors. PB-88 onwards are the confirmation of the accounts of the debtors. PB-6 is cash flow statement. Learned Counsel for the Assessee submitted that all the above documents were filed with the return of income and the income tax return gives an option to the assessee to disclose only one Bank Account. Since, interest of both the Bank Accounts have been disclosed to the Revenue Department, therefore, it cannot be said that Bank Account have not been disclosed to the Revenue Department. He has, therefore, submitted that addition is wholly unjustified.

5. On the other hand, Ld. D.R. relied upon the Orders of the authorities below and submitted that no return for earlier year was filed. PB-27 is cash deposits in the Bank Accounts which was mostly at the end of the year. No source of the cash deposit have been explained. The Ld. D.R. relied upon Judgment of the Hon'ble Punjab &

Haryana High Court in the case of Naresh Kumar vs. CIT, Patiala [2017] 88 taxmann.com 547 (P & H).

6. We have considered the rival submissions and perused the material available on record. Learned Counsel for the Assessee has referred to computation of income for earlier year as well as assessment year under appeal, details of sales, purchase and debtors along with cash flow statement, which would show that assessee has been filing the return of income under section 44AD of the I.T. Act, 1961, as such, assessee was not required to maintain books of account. The assessee has disclosed interest income in the return of income from both the Bank Accounts, therefore, it cannot be said that Oriental Bank of Commerce have not been disclosed to the Revenue Department. The material on record clearly suggest that assessee was doing business activities and different sale proceeds amounts received from the debtors, which have been deposited in the Bank Accounts. One Bank account accepted by the Ld. CIT(A) because it was disclosed in the return of income. However, the fact is that interest from both the Bank

Accounts have been disclosed in the computation of income filed with the return of income, as such, the Ld. CIT(A) on the same reasoning should not have made the addition against the assessee. The assessee has explained the source of cash deposited in Oriental Bank of Commerce. Further, A.O. has taken only the cash deposits in the Bank Account ignoring the amounts withdrawn from the same Bank account, which should have also been considered by the authorities below. Thus, the assessee explained the source of the Bank deposits through the evidences admitted on record. We, therefore, do not find any justification to sustain the addition. We, accordingly, set aside the Orders of the authorities below and delete the entire addition.

7. In the result, appeal of Assessee allowed.

Order pronounced in the open Court.

Sd/-  
(G.D. AGARWAL)  
VICE PRESIDENT

Sd/-  
(BHAVNESH SAINI)  
JUDICIAL MEMBER

Delhi, Dated 16<sup>th</sup> April, 2019

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT "D" Bench
6.	Guard File

//By Order//

Asst. Registrar : ITAT : Delhi Benches :  
Delhi.