

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES "A", JAIPUR

श्री रमेश सी शर्मा, लेखा सदस्य एवं श्री विजय पाल राव, न्यायिक सदस्य के समक्ष  
BEFORE: SHRI RAMESH C SHARMA, AM & SHRI VIJAY PAL RAO, JM

आयकर अपील सं./ITA No. 283/JP/2018  
निर्धारण वर्ष / Assessment Year :2014-15

Neim Khan, Near Raymond Showroom, M.I. Road, Jaipur.	बनाम Vs.	I.T.O., Ward 2(2), Jaipur.
स्थायी लेखा सं./जीआईआर सं./ PAN/GIR No.: ABSPK 6898 F		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri P.C. Parwal (CA)  
राजस्व की ओर से / Revenue by : Shri P.P. Meena (Addl.CIT)

सुनवाई की तारीख / Date of Hearing : 29/04/2019  
उदघोषणा की तारीख / Date of Pronouncement : 02/05/2019

आदेश / ORDER

PER: R.C. SHARMA, A.M.

This is an appeal filed by the assessee against the order of the Id. CIT(A)-I, Jaipur dated 04/12/2017 for the A.Y. 2014-15 in the matter of order passed U/s 143(3) of the Income Tax Act, 1961 (in short the Act).

2. In this appeal, the assessee is aggrieved for addition of Rs. 36,78,540/- U/s 69A of the Act by treating the cash deposit as unexplained.

3. Rival contentions have been heard and record perused. Facts in brief are that the assessee is engaged in the business of cloth and tailor work in the name and style of Modern Tailoring Company. The assessee filed its return of income on 23.02.2015 declaring total income of Rs.2,19,370/-. The AO observed that the assessee has deposited cash of Rs. 57,49,000 in saving bank account maintained at SBI. The AO asked the justification for the same vide letter dt. 19.05.2016 which is reproduced at page 2 of the assessment order. The assessee submitted the reply vide letter dt. 08.09.2016 which is at page 2-3 of the assessment order. The AO after considering the reply of the assessee pointed out that the assessee has not submitted the source of Rs. 19,00,000/-. Further the assessee was required to file the confirmation from the debtors. The AO further observed that the assessee has deposited Rs.17,75,300/- with Bombay Mercantile Cooperative Bank Ltd. The AO vide show cause letter dated 20.12.2016 which is reproduced at page 5-6 of the assessment order asked assessee to provide reasons and justify the amount of Rs. 17,75,300/- and Rs. 19,00,000/- deposited in co-operative bank and received from debtors respectively. The assessee submitted the reply vide letter dated 21.12.2016 which is further reproduced at page 6 of the assessment order. The assessee filed the complete name and address of the debtors.

wherever available, from whom the cash was realised. The AO also issued notice u/s 133(6) to some of the debtors out of which some of them filed confirmation before the AO. The AO considered the reply of the assessee and observed that the complete addresses of the debtors are not provided therefore realisation from these debtors are not verifiable. Accordingly, he made addition of Rs.36,78,540/-.

4. By the impugned order, the Id. CIT(A) confirmed the action of the A.O., against which the assessee is in further appeal before the ITAT.

5. We have considered the rival contentions and carefully gone through the orders of the authorities below. From the record we found that the assessee has only two sources of income. One is the remuneration, interest, share of profit, and rent from partnership firm, M/s Modern Fashion Textile & Tailoring Co. in which he is a partner and second is business income from his proprietary concern, M/s Modern Tailoring Company. In respect of his proprietary concern, the assessee has declared income u/s 44AD since the turnover of this business does not exceed the threshold limit of Rs.1 crore. In the assessment order, the AO himself has accepted that the deposit in the bank account represents the realisation of sales. Therefore, even if the explanation of the assessee as to the source of deposits in the bank account is not fully accepted, then also the deposits as

such cannot be considered as income. At the most, on such deposit which is accepted as a business deposit, net profit rate of 8% as prescribed u/s 44AD can be assessed. The net profit on the amount of Rs.36,76,540/- works out at Rs.2,94,283/-. Therefore, the addition should be sustained only to extent of Rs.2,94,283/- instead of Rs. 36,78,540/- as done by the lower authorities. Accordingly, the A.O. is directed to restrict the addition to the extent of Rs. 2,94,283/-. We direct accordingly.

6. In the result, appeal of the assessee is allowed in part.

Order pronounced in the open court on 02<sup>nd</sup> May, 2019.

Sd/-  
(विजय पाल राव)  
(VIJAY PAL RAO)  
न्यायिक सदस्य / Judicial Member

Sd/-  
(रमेश सी शर्मा)  
(RAMESH C SHARMA)  
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 02<sup>nd</sup> May, 2019

\*Ranjan

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

1. अपीलार्थी / The Appellant- Shri Neim Khan, Jaipur.
2. प्रत्यर्थी / The Respondent- The I.T.O., Ward 2(2), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 283/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar