



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK 'SMC' BENCH, CUTTACK**

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

ITA No.424/CTK/2015
Assessment Year: 2010-2011

Ashok Kumar Agarwal, Ward No.5, Rairangpur	Vs.	ITO, Ward-1, Palabani, Baripada
PAN/GIR No.AEAPA 9577 L		
(Appellant)	..	(Respondent)

Assessee by : Shri D.K.Sheth, AR
Revenue by : Shri Subhendu Dutta, DR

Date of Hearing : 10 /07/ 2019
Date of Pronouncement : 15/07/ 2019

ORDER

This is an appeal filed by the assessee against the order of the Commissioner of Income Tax(Appeals), Cuttack dated 25.5.2015 for the assessment year 2010-2011.

2. Ground No.1 is general in nature and hence, requires no separate adjudication.

2. Ground No.2 & 3 read as under:

"2. For that the addition of Rs.22,000/- under the head "investment in hotel building" as sustained by the CIT(A) is uncalled for.

3. For that the addition of Rs.39,000/- in respect of loans from different persons as sustained by the CIT(A) is also improper."

3. At the time of hearing, Id A.R. of the assessee did not press these grounds and hence, they are dismissed as not pressed.

4. In Ground No.4 of appeal, the grievance of the assessee is that the CIT(A) erred in sustaining the addition of Rs.4,00,000/- under the head "unexplained credit in Bank account" made by the AO.

5. During the course of assessment proceedings, on verification of bank account of the assessee maintained with Odisha Gramya Bank, Rairangpur Branch, the Assessing Officer noticed that Rs.4,00,000/- has been credited to the bank account on 25.3.2010 through cheque No.261101. Since the assessee could not offer any explanation regarding the source of Rs.4,00,000/- credited in the bank account, the Assessing officer added the same to the income of the assessee, which was upheld in first appeal.

6. Before me, Id A.R. furnished a xerox copy of cheque of Rs.4,00,000/- given by Shri Mohan Lal Agarwal in the name of the assessee on 25.3.2010 A/c No.CC 48 placed in paper book and submitted that since the amount has been credited in the bank through cheque, no adverse inference can be drawn regarding the credit of account and, therefore, the addition made may kindly be deleted.

6. Replying to above, Id D.R. submitted that before the lower authorities no such proof was furnished by the assessee.

7. Having heard the rival submissions, we find that the lower authorities had doubted the source of money credited in the bank account of the assessee. Now, the assessee has filed a xerox copy of cheque of Rs.4,00,000/- to prove that Shri Mohan Lal Agarwal has issued the cheque in favour of the assessee and, therefore, the source of which is explained. Id D.R. could not controvert to the submission of xerox copy of the cheque. I find that the cheque No. mentioned in the assessment order is tallied with the copy of cheque now furnished by Id A.R. of the assessee. In view of above, I am satisfied that the source of Rs.4,00,000/- is duly explained by the assessee and, therefore, same is deleted. This ground of appeal is allowed.

8. Ground No.5 of appeal relates to confirmation of addition under the head "depreciable assets".

9. I have heard the rival submissions. On perusal of the impugned order, I find that the assessee has shown capital assets in the balance sheet and liability, which was not questioned by the AO. However, the CIT(A) in the first appeal, has directed to restrict the disallowance of depreciation of Rs.54,800/-. The CIT(A) also accepted the purchases of assets to be genuine but observed that same should be allowed. From the above notings of the CIT(A), I find that the findings of the CIT(A) is contradictory that on one hand, he observed that the depreciation should be allowed and on other hand, restricted the allowance of depreciation of Rs.54,800/-. I



am of the view that the depreciation cannot be denied to the capital assets, where the purchases of the assets are not disputed. In view of above, I delete the addition of Rs.54,800/- towards depreciation of capital assets and allow this ground of appeal.

10. Ground No.6 relates to confirmation of addition of Rs.32,800/- & Rs.3,290/- towards difference in bills for A.C. & T.V.

11. After hearing both the sides, I do not find any infirmity in the order of the CIT(A) in confirming the disallowances as the discrepancies were not complied with by the assessee. Hence, this ground of appeal is dismissed.

12. In the result, appeal of the assessee is partly allowed.

Order pronounced on 15 /07/2019.

Sd/-

(Chandra Mohan Garg)
JUDICIALMEMBER

Cuttack; Dated 15/07/2019
B.K.Parida, SPS

Copy of the Order forwarded to :

1. The appellant: Ashok Kumar Agarwal, Ward No.5, Rairangpur
2. The Respondent. ITO, Ward-1, Palabani, Baripada
3. The CIT(A)-Cuttack
4. Pr.CIT- Cuttack
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr. Pvt. Secretary,
ITAT, Cuttack