



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

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER AND
SHRI L. P. SAHU, ACCOUNTANT MEMBER**

ITA No.148/CTK/2019
Assessment Year: 2013-14

| | | |
|--|-----|-----------------------|
| Sri Manoj Kumar Das, Ward No.12, Ichinda, Rairangpur, Mayurbhanj | Vs. | ITO, Ward-1, Baripada |
| PAN/GIR No.ABOPJ 8514 D | | |
| (Appellant) | .. | (Respondent) |

Assessee by : Shri B.R.Panda, AR
Revenue by : Shri Subhendu Dutta, DR

Date of Hearing : 25 /07/ 2019
Date of Pronouncement : 25 /07/ 2019

ORDER

Per C.M.Garg, JM

This is an appeal filed by the assessee against the order of the Commissioner of Income Tax(Appeals), Cuttack dated 10.1.2019 for the assessment year 2013-14.

2. The appeal filed by the assessee is delayed by two days. The assessee has filed condonation petition stating therein that the advocate looking after the matter was affected severely by the havoc of "FANI" and

the entire system like electricity, etc could not be available and, therefore, there was delay of two days in filing the appeal before the Tribunal.

3. After hearing the rival submissions, we are convinced that the assessee was prevented by sufficient cause for filing the appeal before the Tribunal and hence, we condone the delay and proceed to dispose of the appeal on merits.

4. The assessee has raised the following grounds of appeal:

I. For That the orders of the Forums below are excessive, illegal, unjust and arbitrary in the facts of the case are liable to be quashed in toto.

II. For that, the estimation of profit @8% is excessive in the facts of the case, hence the addition of Rs.8,82,369/- to the income of the appellant should be reduced.

III. For that, the addition of entire bank deposits in the hands of the appellant without proper verification, confrontation by the Id. AO and sustained by the Id. CIT(Appeals) in first appeal is illegal and arbitrary in the facts of the case, hence the deposits made by the HUF and other deposits found should have been excluded from the business income of the appellant.

IV. For that, the deposits in the joint saving bank account cannot be treated as income of the appellant exclusively, hence such addition should have been deleted in the facts of the case.

V. For that, addition of interest income accrued from the bank accounts is unjust in the facts of the case, therefore, addition of Rs.53,708 should not have been assessed as income of the appellant.

VI. For that the Id. CIT(Appeals) failed to appreciate the facts and points of law raised and placed in the appeal and in the matter of estimation of Income further addition of deposits etc. is liable to be deleted."

5. At the time of hearing, Id A.R. of the assessee produced a letter dated 8.2.2016 of Odisha Gramya Bank, wherein, in compliance to information sought u/s.133(6) of the I.T.Act, it was stated that the maturity amount of Rs.2,00,615.95 in RD A/c No.105844100001935 belongs to Sri Binod Kumar Das, which was deposited in the joint account

appropriateness and adequacy of 8% of net profit is concerned, admittedly and undisputedly, the assessee is in the business of sale of shoes and footwear and not maintaining any books of account. At this juncture, we may point out that the assessee failed to submit relevant documents establishing the existence of HUF and reconciliation statement submitted by the assessee has been considered and accepted by the AO. In this situation, after deducting amount of recurring deposits pertaining to brother of the assessee, remaining amount of Rs.1,08,28,992/- is nothing but sale proceeds/receipts of undisclosed sales, which was deposited by the assessee to his five bank accounts. In the business of retail sales of shoes, net profit of 8% is not very high and excessive and, therefore, we decline to accept the contention of Id A.R. that the estimation of net profit @ 8% is very high and excessive. Consequently, the findings arrived at by the AO and CIT(A) on estimation of net profit @ 8% on undisclosed sales is confirmed. Hence, Ground No.1,2,3,4 and 6 are partly allowed.

12. Apropos Ground No.5 of appeal, we find that the addition was made by the AO on account of interest earned by the assessee on his savings bank account. In first appeal, the CIT(A) has allowed statutory deduction u/s.80TTA of Rs.10,000/- available to interest earned on saving account. Therefore, we find no good reason to interfere with the order of the CIT(A) on this issue. This ground is accordingly dismissed.

13. In the result, appeal is partly allowed.

Order pronounced on 25 /07/2019.

Sd/-

sd/-

(L. P. SAHU)

(Chandra Mohan Garg)

ACCOUNTANT MEMBER

JUDICIALMEMBER

Cuttack; Dated 25 /07/209

B.K.Parida, SPS

Copy of the Order forwarded to :

1. The appellant: Sri Manoj Kumar Das, Ward No.12,
Ichinda, Rairangpur, Mayurbhanj
2. The Respondent. ITO, Ward-1, 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