



ITA No.831/Mum/2012
Anand Bal Dhuri
Assessment Year-2007-08

आयकर अपीलीय अधिकरण “ऐ” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, MUMBAI

श्री शक्तिजीत दे, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।
BEFORE SHRI SAKTIJIT DEY, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ I.T.A. No.831/Mum/2012
(निर्धारण वर्ष / Assessment Year:2007-08)

Mr. Anand Bal Dhuri 304, Shivtirth, Bldg. No.2 Bhulabhai Desai Road Mumbai-400 026.	बनाम/ Vs.	Income Tax Officer Ward-11(1)(1) Mumbai.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. ACHPD-2356-F		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकी ओरसे/ Appellant by	:	Rashmikant C. Modi & Ms. Ketki Rajeshirke- Ld. Ars
प्रत्यर्थीकी ओरसे/ Respondent by	:	Manoj Kumar-Ld. DR

सुनवाईकी तारीख/ Date of Hearing	:	26/08/2019
घोषणाकी तारीख / Date of Pronouncement	:	26/08/2019

आदेश / ORDER

Per Manoj Kumar Aggarwal (Accountant Member):-

1. Aforesaid matter is a recalled matter since the appeal was initially dismissed by Tribunal vide order dated 26/09/2018. However, the order has



been recalled, upon assessee's application, vide M.A. No.206/Mum/2019 order dated 07/07/2019. Accordingly, the appeal has come up for fresh hearing before the Bench. The assessee is aggrieved by confirmation of certain additions as made by Ld.AO in an assessment framed u/s. 143(3) on 23/12/2009. The assessee is a resident individual and stated to be engaged in the business of arranging loans. The assessee reflected net profit of Rs.3.20 Lacs against professional receipts of Rs.20.71 Lacs. Upon hearing rival submissions, our adjudication to the same would be as follows.

2.1 The following quantum additions, upon confirmation by learned first appellate authority, is under challenge before us: -

No.	Particulars	Amount (Rs.)
1.	Addition on account of professional fees	1,28,736/-
2.	Disallowance of commission and professional fee	10,13,100/-
3.	Adhoc disallowance of certain expenses @ 20%	1,10,730/-
4.	Unexplained cash credit u/s. 68	39,600/-

2.2 During assessment proceedings, it transpired that the assessee proposed to arrange certain loan for an entity namely M/s. Elite International Pvt. Ltd. and received *on account* payment of Rs.68.60 Lacs. However, the transaction remained un-fructified and the assessee was to refund the amount of Rs.56.60 Lacs after retaining fees of Rs.12 Lacs. However, as against the same, the assessee credited only an amount of Rs.10,71,264/- in the Profit & Loss Account and accordingly, the differential i.e. Rs.1,28,736/- was added to the income of the assessee. Further, as a consequence, commission and professional fees of Rs.10.13 Lacs claimed



by the assessee were disallowed in view of the fact that the assessee failed to perform his obligation and no loan was arranged. Another addition of Rs.1.10 Lacs was adhoc disallowance @20% against office expenses, driver's salary, Telephone expenses & Travelling Expenses aggregating to Rs.5,53,651/- since the expenditure was not fully verifiable. The last addition of Rs.39,600/- is addition u/s 68, being the difference in balance reflected by the assessee against M/s. Elite International Pvt. Ltd. and amount demanded by that entity from the assessee.

3.1 Upon careful consideration, we find that the addition of Rs.1,28,736/- would be sustained since no plausible explanation has been put forth by Ld. AR before us, in this regard. Ground No.1 stand dismissed.

3.2 The disallowance of expenditure of Rs.10.13 Lacs, in our considered opinion, was not justified since the assessee was engaged in the business of arranging loans and whatever business expenditure was incurred for the purpose of business, was allowable to the assessee. The deduction of the same was not dependent upon the successful arranging of loans. The Ld. AO has not doubted the genuineness of the expenditure and has accepted the income offered by the assessee out of this transaction. Therefore, the reasoning put forth by Ld. AO could not be a ground to deny the legitimate business expenditure. Therefore, the disallowance of Rs.10.13 Lacs stand deleted. Ground No. 2 stand allowed.

3.3 The adhoc disallowance @20% as made by Ld.AO on account of expenditure aggregating to Rs.5,53,651/- was on the higher side. We restrict the same to 10%. Ground No. 3 stand partly allowed.



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3.4 The addition made u/s 68 for Rs.39,600/- would not be sustainable in view of the fact that the same was matter of reconciliation only and the differential amount could not be said to be unexplained cash credit within the meaning of Section 68. Ground No. 4 stand allowed. The other grounds are general in nature and would require no adjudication.

4. The appeal stands partly allowed.

Order pronounced in the open court on 26th August, 2019.

Sd/-
(Saktijit Dey)
न्यायिक सदस्य / **Judicial Member**

Sd/-
(Manoj Kumar Aggarwal)
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 26/08/2019
Sr.PS:-Jaisy Varghese

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त/ CIT– concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai.



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