

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

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.No.7064/Del./2018  
Assessment Year 2015-2016

Shri Arun Kumar Tyagi, Shop No.01, H-Block Market, Vikas Puri, New Delhi- 110 018. PAN ABWPT0734D	vs.,	The DCIT, Circle-62(1), E-2 Block, Pratyakash Kar Bhawan, Civic Centre, New Delhi – 110 002.
(Appellant)		(Respondent)

For Assessee :	Ms. Rano Jain, Advocate And Ms. Mansi Jain, C.A.
For Revenue :	Shri S.L. Anuragi, Sr. D.R.

Date of Hearing :	26.08.2019
Date of Pronouncement :	05.09.2019

**ORDER**

This appeal by assessee has been directed against the order of Ld. CIT(A)-20, New Delhi, Dated 30<sup>th</sup> August, 2018, for the assessment year 2015-16.

2. Briefly the facts of the case are that return of income was filed declaring income at Rs.20,11,540/-. During the course of assessment proceedings, it was noticed that assessee has made cash deposit entries of

Rs.22,67,300/- in his bank account on different dates. The assessee was asked to explain source of cash deposit in various bank accounts. The assessee filed reconciliation regarding cash deposits. The A.O. on perusal of the same found that assessee has made total cash withdrawals of Rs.1,40,36,000/- on different dates and deposited cash in different Banks totaling to Rs.22,67,300/-. The details of same are noted in the assessment order. The A.O. noted that as per P & L A/c for assessment year under appeal, it was seen that assessee has made total cash payment of Rs.1,49,40,000/-. Therefore, contention of assessee that cash deposited in different Banks is out of such withdrawal was not accepted. The A.O. accordingly made addition of Rs.22,67,300/- under section 68 of the I.T. Act, 1961. The Ld. CIT(A) on the same reasoning confirmed the addition and dismissed the appeal of assessee.

3. I have heard the Learned Representative of both the parties and perused the material available on record.

4. Learned Counsel for the Assessee submitted that assessee is a contractor and maintained proper books of account. The assessee following the mercantile system of accounting. The accounts of the assessee are audited. Copy of audit report is filed in the Paper Book. PB-57 is P & L A/c to show labour wages expenses in a sum of Rs.1,49,40,000/-. PB-56 is balance-sheet to show cash in hand of Rs.84,760/- and in current liabilities the labour and wages payable have been shown in a sum of Rs.8,19,800/-. PB-3 is cash flow statement to show labour charges having paid in a sum of Rs.1,07,41,143/-. PB-76 is details of expenses as per P & L A/c which shows labour charges expenses of Rs.1,49,40,000/- and labour charges payable in a sum of Rs.8,19,800/- which is also mentioned in the balance-sheet. She has, therefore, submitted that A.O. misunderstood the fact that assessee paid cash payment of Rs.1,49,40,000/- which is in fact labour expenses which are paid partly by cheque and partly by cash. PB-77 is the details of labour charges paid duly showing part amount have been paid in cash and part

amount through Bank. Learned Counsel for the Assessee submitted that since balance-sheet tally with the figure and books of account have not been rejected by the authorities below, therefore, whole addition is unjustified.

5. On the other hand, Ld. D.R. relied upon the Orders of the authorities below.

6. I have considered the rival submissions. The A.O. noted in the assessment order that assessee has made cash payment of Rs.1,49,40,000/-. This figure tally with the Profit & Loss A/c in which this amount have been shown as labour and wages expenses. As per details available on record referred to by the Learned Counsel for the Assessee, the labour and wages have been paid partly in cash and partly by Bank account. The labour charges payable at the end of the year have been shown in the balance-sheet. It appears wrong facts have been noted by the A.O. for making the addition. The assessee maintained books of account and accounts are audited. The A.O. did not reject the maintenance of the books of account and no deficiency in

the same have been pointed-out. The assessee has shown cash in hand in the balance-sheet. Since all the transactions in the Bank accounts are routed through the books of account of assessee, which have not been doubted by the authorities below, therefore, there is no question of assessee making any cash deposit in the Bank account on account of undisclosed income. The cash deposit in the Bank account are explained by assessee through various evidences on record as well as details mentioned in the books of account. Therefore, no addition under section 68 of the I.T. Act could be made against the assessee. I, accordingly, set aside the Orders of the authorities below and delete the addition of Rs.22,67,300/-.

7. In the result, appeal of Assessee allowed.

Order pronounced in the open Court.

Sd/-  
(BHAVNESH SAINI)  
JUDICIAL MEMBER

Delhi, Dated 05<sup>th</sup> September, 2019

VBP/-

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

// BY Order //

Asst. Registrar : ITAT Delhi Benches :  
Delhi.