आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'SMC' अहमदाबाद ।

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD

BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER &
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No. 3320/Ahd/2015
(**निर्धारण वर्ष /** Assessment Year : 2011-12)

Shri Narendrakumar Bhupendrabhai Patel Prop. of Nokia Electronics 23-24, Municipal Market, Nr. Unjha Pharmacy, Station Road, Unjha - 384170	बनाम/ Vs.	**ITO** Ward – 2 (Now Ward-4), Patan
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ACYPP9591M		
(अपीलार्थी /**Appellant**)	..	(प्रत्यर्थी / **Respondent**)

अपीलार्थी ओर से /**Appellant by :**	Shri H. V. Doshi, A.R.
प्रत्यर्थी की ओर से / **Respondent by :**	Shri Virender Singh, Sr.DR

सुनवाई की तारीख / **Date of Hearing**	09/08/2019
घोषणा की तारीख /**Date of Pronouncement**	11/09/2019

आदेश/O R D E R

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Appeals), Gandhinagar ('CIT(A)' in short), dated 26.10.2015 arising in the assessment order dated 31.12.2013 passed by the Assessing Officer (AO)

under s. 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2011-12.

2. The grounds of appeal raised by the assessee read as under:

> *"1. Learned CIT (A) has erred in law & facts in confirming addition of Rs. 2,11,513/- made by A.O. in respect of negative differences in closing bank balances in Market yard commercial co-op, bank and balances sheet in consequence of debit balance (Negative balance) in bank statement.*
>
> *2. Learned CIT (A) has erred in law & facts by confirming addition of Rs. 20,618/- made by A.O.in respect of differences in closing balances in Oriental bank of commerce current accounts.*
>
> *3. Learned CIT (A) has erred in law & facts by confirming addition of Rs. 6,80,000/- made by A.O. in respect of peak balances of cash deposit in saving bank account of Oriental bank of commerce on the basis of remand report of A.O and erred by not considering the facts in personal books of accounts produced as additional evidence.*
>
> *4. Learned CIT (A) has erred in law & facts by confirming addition of Rs. 6,10,000/- made by A.O. in respect of wrongly computed peak balances of current account of Oriental bank of commerce on the basis of remand report of A.O and erred by not considering the facts in personal books of accounts produced as additional evidence."*

3. The assessee, a proprietor of Nokia Electronics, filed his return of income for AY 2011-12 declaring total income of Rs.1,64,460/-. The return filed by the assessee was subjected to scrutiny assessment. In the course of scrutiny assessment, the AO observed that closing bank balance in the balance sheet of Nokia Electronics did not match with the closing balance in the various bank statements of the proprietary concern. The AO found difference of Rs.20,618/- in the bank balance of Oriental Bank of Commerce (OBC) and Rs.2,11,513/- in Market Yard Commercial Co-operative Bank. The AO also found that certain cash deposits amounting to Rs.6,80,000/- in the saving bank account of OBC in individual name and Rs.6,10,000/- in current account of OBC. The AO did not find the explanation towards such differences and deposits to be satisfactory and accordingly added the aggregate amount of Rs.15,22,231/- on account of such differences and deposits.

4. Aggrieved, the assessee preferred appeal before the CIT(A) without any success.

5. Further aggrieved, the assessee preferred appeal before the Tribunal.

6. We have heard the rival submissions on the reconciliation of differences in the bank account and unexplained cash deposits. As pointed out on behalf of the assessee, we note that assessee is a small trader of electronics items. The balance sheet submitted in the course of assessment proceedings were based on incomplete accounts and admittedly many bank transactions were not incorporated resulting in reconciliation differences. The assessee is stated to have recast the books of accounts incorporating all the entries and filed the same before the Revenue authorities. According to the newly constructed balance sheet (placed in paper book), the capital account of the assessee stands at a meager amount of Rs.1,65,010/- only. The total resources including the liability stands at Rs.3,80,330/-. The assessee has claimed that it is engaged in the fringe business of purchase and sale of old television sets and the amount deposited have been regularly withdrawn from time-to-time and recycled in the business. The aforesaid submission of the assessee appears correct from the summery of the cash statement showing deposits and withdrawals in the bank. The differences in the bank statement has been also reconciled before the CIT(A). The assessee has also pointed out such facts to the AO in the remand proceedings. Having regard to the meager turnover of less than Rs.40 Lakhs, the assessee is not expected to maintain regular books of accounts under the presumptive taxation scheme prescribed in Section 44AD of the Act. It is also noticed that assessee claims to have submitted copy of sales register, purchase register and quantitative details before the CIT(A). In such circumstances and having regard to the smallness of the transaction, the explanation offered by the assessee is considered to be broadly satisfactory. Therefore, the addition on account of reconciliation differences amounting to Rs.2,11,513/- and Rs.20,618/- stands deleted. As regards cash deposits of Rs.6,80,000/- and Rs.6,10,000/-, we direct the AO to estimate income applying 5% thereon in tune with Section 44AF of the

Act. The addition of Rs.64,500/- is thus sustained and remaining addition stands deleted.

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

This Order pronounced in Open Court on 11/09/2019

Sd/-	Sd/-
(RAJPAL YADAV)	(PRADIP KUMAR KEDIA)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Ahmedabad: Dated 11/09/2019

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।