

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : SMC : NEW DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.5141/Del/2018  
Assessment Year: 2006-07

Global Relocation Pvt. Ltd.,  
E-2/4, Vasant Vihar,  
New Delhi.

Vs. ITO,  
Ward-12(2),  
New Delhi.

PAN: AABCG7287M

(Appellant)

(Respondent)

Assessee by : Shri Kamal Ahuja, Advocate  
Revenue by : Shri S.L. Anuragi, Sr.DR

Date of Hearing : 08.08.2019  
Date of Pronouncement : 24.09.2019

ORDER

This appeal by the assessee is directed against the order dated 30<sup>th</sup> May, 2018 of the CIT(A)-42, New Delhi, relating to Assessment Year 2006-07.

2. Facts of the case, in brief, are that the assessee is a company engaged in the consultancy business in real estate and earns commission thereon. It filed its return of income on 30.11.2006 declaring total loss of Rs.1,13,138/-. The Assessing Officer, during the course of assessment proceedings, noted that the assessee in its bank account No.7630 maintained with ICICI Bank, has made cash deposit of Rs.6,75,000/- on 03.01.2006. Since the total commission income for the year totaled only to

Rs.3,87,000/-, the Assessing Officer asked the assessee to produce the cash book and explain the source of deposit of Rs.6,75,000/-. The assessee was unable to confirm or explain the source of deposit of Rs.6,75,000/-. Therefore, the Assessing Officer, invoking the provisions of section 68 of the Act, made an addition of Rs.6,75,000/- to the total income of the assessee. Similarly, the Assessing Officer noted that the assessee has claimed a sum of Rs.72,567/- on account of office maintenance and Rs.90,000/- on account of rent paid which included a payment of Rs.65,000/- to M/s Orient Ceramics. Since the assessee company expressed its inability to produce necessary vouchers for the expenditure incurred towards office maintenance and rent paid to Orient Ceramics, the Assessing Officer made addition of Rs.1,37,567/-. Similarly, he also made an addition of Rs.5,100/- on account of donation. The Assessing Officer accordingly determined the total income of the assessee at Rs.7,04,529/-. In appeal, the Id.CIT(A) upheld the action of the Assessing Officer. So far as the addition of Rs.6,75,000/- is concerned, he upheld the action of the Assessing Officer by observing as under:-

“5.2 The facts of the case are that the assessee company during the year has claimed to be engaged in the consultancy business in real estate and earned commission of Rs. 3,87,000/-.

5.3 During the assessment proceedings, the A.O. noticed cash deposit of Rs.6,75,000/- on 03.01.2006 in the bank a/c no.7630 maintained with ICICI Bank. The assessee was asked to explain the source of the same. In response, the assessee admitted it to be unexplained cash deposit vide letter letter 11.09.2008. During the appellate proceedings, the assessee took a position that the cash deposit in the bank account was received in lieu of share application money from Mrs. Vimmi Kapoor wife of Mr. Umesh Kapoor, director of the appellant company. Appellant also submitted copy of Board resolution, dated 01.03.2006 in respect of allotment of 75,000 shares to support its contention.

5.4 I find that the Board meeting took place on 01.03.2006 at 3 P.M wherein it is recorded that the appellant has to make the payment of balance 90% of share application money. The cash deposit in the bank account of the appellant is also on 01.03.2006. I find that the plea of deposit of share application money in cash is an afterthought because if the cash was deposited on 01.03.2006 in the bank account in that case the fact of deposit of cash ought to have been recorded in the Board meeting held on the same date at 3 P.M.

5.5. Moreover, Mrs. Virnmi Kapoor, wife of Mr. Umesh Kapoor director of the company was present in the Board meeting and it cannot be the case that he was not aware of any cash deposit by his wife. Further, the appellant company was asked that whether receipt was duly recorded in the books of account as share application money in the hand of Mrs. Vimmi Kapoor in response to the same the appellant company responded that the same was returned back to the Mrs. Vimmi Kapoor on 28.03.2006. It cannot be the case that when shares have been allotted on 01.03.2008 and share application money has taken the character of share capital, it is no longer returnable by the company allotting shares. Accordingly, the response of the assessee company is an afterthought to cover up and explain the source of cash. Moreover, the appellant has failed to produce the voucher of cash receipt from Mrs. Vimmi Kapoor and cash payment to Mrs. Vimmi Kapoor. In view of the above discussion, I do not find merit in the submission of the appellant company. Hence, the ground of appeal is dismissed.”

3. He also sustained the addition made by the Assessing Officer on account of office maintenance and rent on the ground that the assessee failed to substantiate with evidence to his satisfaction. Similarly, donation made by the Assessing Officer was also confirmed by him on the ground that the assessee failed to explain as to how the donation expenditure is wholly and exclusively for the business of the assessee.

4. Aggrieved with such order of the Id.CIT(A), the assessee is in appeal before the Tribunal challenging the order of the CIT(A) in sustaining the various additions made by the Assessing Officer.

5. The Id. counsel for the assessee, at the outset, submitted that the Assessing Officer made additions on the ground that the assessee failed to substantiate with

evidence to his satisfaction regarding the source of deposit in the bank account and failed to submit the bills and vouchers for claim of office maintenance expenses and rent paid to M/s Orient Ceramics. In absence of any evidence to support the claim of donation expenditure, the same was disallowed by the Assessing Officer. He, submitted that although full details were filed during the course of appeal proceedings, however, the Id.CIT(A), without appreciating the facts properly, has upheld the additions made by the Assessing Officer. He submitted that given an opportunity, the assessee is in a position to substantiate with evidence to the satisfaction of the Assessing Officer regarding the nature and source of cash deposit in the bank account and the genuineness of expenditure incurred on account of office maintenance, rent and donation.

6. The Id. DR, on the other hand, heavily relied on the order of the Assessing Officer and CIT(A). He submitted that the assessee miserably failed before the Assessing Officer as well as before the CIT(A) to substantiate its claim, therefore, no further opportunity should be given to the assessee and the additions made by the Assessing Officer and sustained by the CIT(A) should be upheld.

7. I have considered the rival arguments made by both the sides and perused the orders of the authorities below. I find the Assessing Officer in the instant case made addition of Rs.6,75,000/- on the ground that the assessee could not explain the source of the cash deposit in the bank account maintained with ICICI Bank. Similarly, due to failure of the assessee to substantiate the claim of expenses on account of office

maintenance and rent paid to M/s Orient Ceramics, the Assessing Officer made addition of Rs.1,37,567/-. Similarly, he disallowed an amount of Rs.5,100/- being donation paid since the assessee could not substantiate with evidence to justify the allowability of such donation. We find although the assessee filed certain details before the CIT(A), he rejected the contention of the assessee and sustained the various additions made by the Assessing Officer. It is the submission of the Id. counsel for the assessee that given an opportunity, the assessee is in a position to substantiate the nature and source of such cash deposit and the allowability of various expenses which were disallowed by the Assessing Officer and sustained by the CIT(A). Considering the totality of the facts of the case and in the interest of justice, I deem it proper to restore the issue back to the file of the Assessing Officer with a direction to give one more opportunity to the assessee to substantiate his case and decide the issues as per fact and law. I hold and direct accordingly. The grounds raised by the assessee are accordingly, allowed for statistical purposes.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

The decision was pronounced in the open court on 24.09.2019.

Sd/-

(R.K. PANDA)  
ACCOUNTANT MEMBER

Dated: 24<sup>th</sup> September, 2019

dk

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi