

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F" NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

I.T.A. No.7722/DEL/2018
Assessment Year: 2010-11

Rajesh Kumar, Pravesh Kumar Sharma, Adv., 493-L Model Town, Karnal.	vs.	ACIT, Circle Karnal, Karnal.
TAN/PAN: BBQPK 1126H (Appellant)		(Respondent)

Appellant by:	Shri Rakesh Jain, CA and Shri Gurjeet Singh, CA		
Respondent by:	Shri S.L. Anuragi, Sr.D.R.		
Date of hearing:	25	07	2019
Date of pronouncement:	16	10	2019

ORDER

PER AMIT SHUKLA, JM:

The aforesaid appeal has been filed by the assessee against the impugned order dated 10.10.2018 passed by Commissioner of Income Tax (Appeals), Karnal for the quantum of assessment passed u/s.147 for the Assessment Year 2010-11. The sole grounds raised in the appeal reads as under:

"1. That ld. CIT(A) erred in law in confirming the estimating of gross receipts of Rs.35,000/- by Ld. ACIT whereas the receipts per student is Rs.20,000/- in the hands of the appellant."

2. The facts in brief are that the Assessing Officer received an information that assessee had deposited cash amount of Rs.90,47,610/- in his Bank accounts maintained with HDFC Bank Ltd. and Axis Bank during the Financial Year 2009-10. In the wake of such an information, the assessee's case was reopened u/s.147 by issuance of notice u/s.148 dated 31.03.2017. The ld. Assessing Officer on the perusal of the bank statement found that assessee had deposited amount of Rs.65,97,610/- in HDFC Bank and Rs.24,50,000/- in the Axis Bank. In response to the final show cause notice, the assessee submitted that he has been sending the students to School of Management, London for study and in lieu of the same assessee had received commission from the students. The assessee has been charging commission of Rs. 25,000/- to 50,000/- per student and during the year it was submitted that he has received commission from 20-22 students who were sent abroad. The amount of commission fees received from the students was deposited in the bank accounts and certain amount received from other sources was also deposited in the bank account. However, on the basis of certain documents and papers placed during the course of assessment proceedings, the Assessing Officer agreed with the contention of the assessee that he was sending students abroad for studies and held that assessee on an average has received commission of Rs.35,000/- per student. If 22 students were sent abroad, then assessee's income should be

Rs.7,70,000/- . Accordingly, the amount of Rs.7,70,000/- has been assessed as income of the assessee.

3. Ld. CIT (A) has reduced the addition by giving relief of Rs.2 lacs towards estimated expenses for running of the office establishment, etc. as allowable expense. Accordingly, addition sustained was Rs.5,70,000/-.

4. After hearing both the parties and on perusal of the impugned orders, we find that only dispute is with regard to the estimate of commission received from students whom assessee was facilitating in sending for management studies in London. The assessee had stated that he was receiving commission ranging between Rs.25,000/- to 50,000/- per student. The ld. Assessing Officer has worked out an average of Rs.35,000/- per student and has estimated the gross receipts at Rs.7,70,000/- which has been added to the income of the assessee. Ld. CIT (A) has given benefit of certain expenditure on estimate basis and has reduced sum of Rs.2 lac. Looking to the fact that both the authorities have accepted that the assessee was earning commission from the students for facilitating them to send abroad for further studies; and if assessee is in such a business, then entire gross receipts cannot be added. Thus, on estimate basis, we hold that 50% of the said receipts i.e., Rs7,70,000/- should be taken as profit/income which should be added. Accordingly, assessee gets relief of Rs.3,85,000/-.

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

Order pronounced in the open Court on 16th October, 2019.

Sd/-
[PRASHANT MAHARISHI]
[ACCOUNTANT MEMBER]

DATED: 16th October, 2019

PKK:

Sd/-
[AMIT SHUKLA]
JUDICIAL MEMBER