

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER
ITA NO.7363/MUM/2013(A.Y. 2007-08)

Mr.Mujeeb Alam Rajput,
Makhrani Galli, Behram Nagar,
Bandra(E), Mumbai 400 051
PAN:AIUPR4891C

..... Appellant

Vs.

Income Tax Officer -19(3)(3),
Mumbai

..... Respondent

Appellant by : Shri Mujeeb Alam Rajput (Assessee in person)
Respondent by : Ms. Kavita P. Kaushik

Date of hearing : 18/09/2019

Date of pronouncement : 24/10/2019

ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of CIT(A) - 30, Mumbai dated 18/10/2013 for assessment year 2007-08.

2. The assessee appearing in person submitted that assessee had declared income of Rs.1,03,500/- under section 44AF of the Income Tax Act,1961(herein after referred to as 'the Act')in the return. During the period relevant to the assessment year under appeal, the assessee was engaged in the business of trading in readymade garments. Certain cash amounts were deposited in the bank (ICICI Bank, Bandra(W) Branch) from sale proceeds of the garments. The Assessing Officer made addition of Rs.12,39,457/- under section 68 of the Act in respect of cash

credits in the Bank Account. The assessee filed an appeal before the CIT(A) against the aforesaid addition. The appeal of the assessee was dismissed by CIT(A), hence, the present appeal.

3. Ms. Kavita P. Kaushik representing the Department vehemently defended the impugned order. The Id. Departmental Representative submitted that assessee had failed to explain cash credits in the saving bank account, therefore, the addition was sustained by the CIT(A),

3. We have heard the submissions made by representatives of the rival sides and have perused the orders of the authorities below. Undisputedly, cash deposit to the tune of Rs.12,39,457/- were made in ICICI Bank account of the assessee. The addition of aforesaid cash deposits were made by the Assessing Officer under section 68 of the Act. The assessee in his return of income had declared business income computed under section 44AF of the Act. In assessment proceedings, the assessee in statement recorded under section 131 of the Act explained that the deposits in the bank are business receipts of the assessee. The Assessing Officer has not pointed any other source of income of the assessee, while making addition of unexplained cash credits under section 68 of the Act. Explanation furnished by the assessee qua source of cash deposits in the absence of any other source of income is plausible. Thus, in the facts of the case we hold cash deposits in the bank account of assessee are his business receipts. Consequently, entire cash credits cannot be considered as income of the assessee. The cash credits in the bank being business receipts of the assessee are also subject to the

provisions of section 44AF of the Act. The Assessing Officer is directed to treat cash credits as business receipts of the assessee and accordingly compute income of the assessee under section 44AF of the Act.

4. In the result, appeal of the assessee is partly allowed in the terms aforesaid.

Order pronounced in the open court on Thursday the 24th day of October, 2019.

Sd/-
(RAJESH KUMAR)
ACCOUNTANT MEMBER

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Mumbai, Dated 24/10/2019
Vm, Sr. PS(O/S)

Copy of the Order forwarded to :

1. The Appellant ,
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai