

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

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
AND
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

ITA No.1547/Del/2017
Assessment Year: 2011-12

Manoj Kumar,
A-391, Shastri Nagar,
Delhi.

Vs ITO,
Ward-35(3),
New Delhi.

PAN: ASLPK3765D

(Appellant)

(Respondent)

Assessee by	:	Shri R.S. Singhvi, CA
Revenue by	:	Ms Rakhi Vimal, Sr. DR
Date of Hearing	:	21.11.2019
Date of Pronouncement	:	18.12.2019

ORDER

PER R.K. PANDA, AM:

This appeal filed by the assessee is directed against the order dated 24th January, 2017 of the CIT(A)-12, New Delhi relating to assessment years 2011-12.

2. Although a number of grounds have been raised by the assessee, they all relate to the order of the CIT(A) in confirming the addition of Rs.1,03,08,763/- made by the AO in the *ex parte* order passed by him.

3. Facts of the case, in brief, are that the assessee is an individual and has filed his return of income on 3rd February, 2012 declaring total income at Rs.2,11,795/-,

after claiming deduction of Rs.24,819/- u/s 80C. During the course of assessment proceedings, the AO observed that the assessee has deposited cash amounting to Rs.1,01,98,000/- in his savings bank account maintained with Corporation Bank which is available as per AIR information. He, therefore, asked the assessee to explain the source of such cash deposit in the bank account. Since there was no compliance from the side of the assessee, the AO proceeded to complete the assessment u/s 144 of the IT Act. As per the information obtained u/s 133(6) of the IT Act from the concerned banks, the AO noted that during the period from 01.04.2010 to 31.03.2011, the assessee has deposited Rs.1,03,08,763/- in account No.001786, Rs.87,000/- in account No.100007 both maintained with Corporation Bank, Rs.23,500/- in account No.30093973239 maintained with State Bank of India, Rs.3,000/- in account No.30992532169 maintained with State Bank of India and Rs.10,000/- in account No.87932200059520 maintained with Syndicate Bank. Since there was no explanation from the side of the assessee, the AO made addition of Rs.1,04,32,263/- to the total income u/s 68 of the IT Act. In appeal, the Id.CIT(A) sustained an amount of Rs.1,03,08,763/- and deleted the addition to the extent of Rs.1,23,500/- being the deposit of Rs.87,000/-, Rs.23,500/-, Rs.3,000/- and Rs.10,000/- as explained as per the return of income filed by the assessee.

4. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

5. The Id. counsel for the assessee, at the outset, submitted that the assessee is an employee of M/s Ganpati Documentation (P) Ltd. Which is engaged in the business of drafting of various deeds like Sale Deed, Relinquishment Deed, Gift Deed, etc. The assessee used to assist the Deed Writer and used to procure stamp papers for their clients for the said purposes. Since the stamp papers were purchased from the Government Treasury and cash was to be deposited for purchase of stamp papers, the assessee used to collect cash from customers for whom the deeds were required to be procured by the Deed Writer and used to deposit the same in the bank account for safe custody. He submitted that cash deposited in the bank and withdrawals made for the purpose of purchase of stamp papers was in respect of cash belonging to the customers. Referring to page 4 of the paper book, the Id. Counsel drew the attention of the Bench to the certificate issued by M/s Ganpati Documentation (P) Ltd.. Referring to page 6 of the paper book, he drew the attention of the Bench to a letter addressed by M/s Ganpati Documentation (P) Ltd. He submitted that although the lower authorities have not considered the explanation given by the assessee, the assessee is in a position to produce the authorized person of M/s Ganpati Documentation (P) Ltd., to substantiate that the money so deposited in the bank account of the assessee, in fact, belongs to various customers on whose behalf the assessee has purchased the stamp paper, etc., after obtaining the money from them. He accordingly submitted that he has no objection if the matter is restored to the file of the AO with whatever

direction the Tribunal deems proper for adjudication of the issue as per fact and law.

6. The Id. DR, on the other hand, heavily relied on the order of the AO and CIT(A). He submitted that the assessee, in the instant case, has failed miserably to explain the source of such huge cash deposits in bank accounts. Therefore, the order of the CIT(A) should be upheld and no further opportunity should be granted to the assessee.

7. We have considered the rival arguments made by both the sides, perused the orders of the Assessing Officer and CIT(A) and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. We find the AO, in the instant case, made an addition of Rs.1,04,32,263/- being the amount of cash deposited by the assessee in various bank accounts since the assessee did not respond to the various notices issued by him to substantiate the source of the same. We find the Id.CIT(A), after considering the income declared by the assessee, deleted the small deposits of Rs.3,000/-, Rs.10,000/-, Rs.23,500/- and Rs.87,000/- and sustained the addition of Rs.1,03,08,763/- being the amount of cash deposited with Corporation Bank. While doing so, the Id.CIT(A) noted that the assessee has not given the names and addresses of the parties from whom the assessee has claimed to have received cash. Even during assessment proceedings also the assessee was unable to submit the details like names and addresses of the clients on behalf of whom cash was received and deposited in his personal bank

account and refunded back where registration did not take place. It is the submission of the Id. Counsel for the assessee that given an opportunity the assessee is in a position to substantiate with evidence to the satisfaction of the AO regarding the details of persons from whom he has obtained money for purchase of stamp paper which were deposited in his bank account and subsequently either stamp papers were purchased or when the transaction did not take place, money was refunded to the customers. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the AO with a direction to grant one final opportunity to the assessee to substantiate his case with evidence to his satisfaction regarding the nature and source of such cash deposits in his bank account and decide the issue as per fact and law. The assessee is also hereby directed to appear before the AO and substantiate the same with full details failing which the AO is at liberty to pass appropriate orders as per law. We 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 18.12.2019.

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 18th December, 2019

dk

Copy forwarded to :

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

Asstt. Registrar, ITAT, New Delhi