

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : SMC : NEW DELHI  
BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.959/Del/2019  
Assessment Year: 2010-11

Naresh Kumar Chhokar,  
K-204, High Brid,  
NHO, Scotish Garden,  
Indirapuram,  
Ghaziabad.

Vs. ITO,  
Ward 3(4),  
Gurgaon.

PAN: AEXPC0082N

(Appellant)

(Respondent)

Assessee by	:	Shri Rajiv Saxena, Advocate & Shri Ajit Kumar Jha, Advocate
Revenue by	:	Shri Saras Kumar, Sr.DR
Date of Hearing	:	12.12.2019
Date of Pronouncement	:	18.12.2019

ORDER

This appeal by the assessee is directed against the order dated 26.11.2018 of the CIT(A)-1, Gurgaon, relating to Assessment Year 2010-11.

2. Although a number of grounds have been raised by the assessee, they all relate to the order of the CIT(A) in sustaining an addition of Rs.13,61,000/- out of Rs.18,22,000/- made by the AO on account of unexplained cash deposit in the bank account



3. Facts of the case, in brief, are that the assessee is a non-filer of income-tax return. On the basis of the information obtained from the system that the assessee has made cash deposit of Rs.18,22,000/- in his bank account, the case of the assessee was reopened u/s 147 of the Act and notice u/s 148 of the Act was issued. In response to the notice u/s 148, the assessee filed his return on 01.11.2017 declaring the total income at Rs.7,22,320/-. The AO completed the assessment u/s 143(3)/147 determining the total income at Rs.25,44,320/- wherein he made an addition of Rs.18,22,000/- being the cash deposit in the bank account, the source of which the assessee could not explain properly. Before the CIT(A), the assessee filed various details based on which the Id.CIT(A) called for a remand report from the AO. After considering the remand report of the AO and the rejoinder of the assessee to such remand report, the Id.CIT(A) held that an amount of Rs.5,22,500/- has been deposited by the father of the assessee in the bank account. Since the cash withdrawals by the assessee are meager, the Id.CIT(A), after considering a part of such deposit as required for household expenses, accepted an amount of Rs.4,61,000/- to be explained and out of the total deposit of Rs.18,22,000/- sustained the balance amount of Rs.13,61,000/-.

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

5. The Id. Counsel for the assessee filed a chart containing analysis of monthly bank balance of the assessee's father Shri Bhopal Singh showing regular withdrawals

after deposits leaving small balances. Referring to various pages of the paper book, he submitted that the AO in the order passed u/s 147/143(3) for assessment year 2011-12 has accepted the cash deposit of Rs.10,50,000/-. He submitted that the AO for assessment year 2011-12 is ITO, Ward 2(5), Ghaziabad whereas the order for assessment year 2010-11 has been passed by the AO, Ward 3(1), Gurgaon. He submitted that the substantial agricultural land held by the father of the assessee has been completely ignored by the lower authorities. He accordingly submitted that the addition sustained by the CIT(A) should be deleted. In his alternate contention, he submitted that he has no objection if the matter is restored to the file of the AO with a direction to verify all the relevant details and pass appropriate order.

6. The Id. DR, on the other hand, heavily relied on the order of the CIT(A). He submitted that the Id.CIT(A) has already given substantial relief to the assessee by considering the various deposits made by the father of the assessee. For the remaining amount, the assessee was unable explain the source. Therefore, the addition sustained by the CIT(A) should be upheld.

7. I have considered the rival arguments made by both the sides, perused the orders of the AO and the CIT(A) and the paper book filed on behalf of the assessee. I have also considered the various decisions cited before me. I find the AO, in the instant case, made addition of Rs.18,22,000/- being the cash deposits in the bank account by the assessee on the ground that the assessee was unable to explain the source of such cash deposit. I find the Id.CIT(A), after obtaining the remand report

from the AO and considering the rejoinder to such remand report, has deleted an amount of Rs.4,61,000/- being explained and sustained the balance amount of Rs.13,61,000/-. It is the submission of the Id. Counsel for the assessee that the lower authorities have not considered the substantial agricultural land held by the father of the assessee and cash deposits represented agricultural income of the assessee. It is also his submission that various other details furnished by the assessee were not properly appreciated by the lower authorities. Considering the totality of the facts of the case and in the interest of justice, I deem it proper to restore the issue to the file of the AO with a direction to grant one more opportunity to the assessee to substantiate his case and decide the issue 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 18.12.2019.

(R.K. PANDA)  
ACCOUNTANT MEMBER

Dated: 18 December, 2019

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Copy forwarded to :

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

Asstt. Registrar, ITAT, New Delhi