

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR**

BEFORE SH. N. K. CHOUDHRY, JUDICIAL MEMBER  
AND SH. O. P. MEENA ACCOUNTANT MEMBER

**I.T.A. No. 686/Asr/2019**

Assessment Year: 2006-07

Sh. Arun Kumar  
Prop. Mahalaxmi Builders  
& Colonizers C-68,  
Guru Ram Dass Avenue,  
Ajnala Road, Amritsar

[PAN: ALEPK 9650P]

**(Appellant)**

vs. Income Tax Officer,  
Ward 4(1), Amritsar,  
Punjab

**(Respondent)**

Appellant by : Sh. Parveen Jain (Adv.)

Respondent by: Smt. Raman Damathia (DR)

Date of Hearing: 17.12.2019

Date of Pronouncement: 19.12.2019

**ORDER**

**Per O. P. Meena, AM:**

This appeal filed by the Assessee is against the order of learned Commissioner of Income Tax (Appeals)-2, Amritsar dated 30.08.2019 for the Assessment Year 2006-07.

2. Ground no. 1 to 6 of the appeal are relate to confirming the addition of Rs.7,48,462/- made on account of peak credit balance in the saving bank account with Central Bank of India and the deletion of Rs.2,11,574/- by applying 15% read section 44AF of bank transaction of Rs.14,10,495/-.These grounds are interlinked, hence same are being considered together.

3. Brief facts of the case are that the assessee has filed return of income on 29.03.2007 declaring total income at Rs.1,43,000/-. The assessee has shown an income of Rs.45,500/- from the business of properties consultancy and profit of Rs.97,500/- u/s 44AF @ 15% on sale of building material to the tune of Rs.6,50,000/-. The AIR information revealed that the assessee has made cash deposits in his saving bank account maintained with Central Bank of India at Rs. 14,10,495/-. The assessee has claimed that the cash deposits are out of his family business being carried out by the assessee and his mother. However, the AO was not satisfied with the explanation and treated the total transaction of Rs. 14,10,495/- recorded in the bank account as sale proceeds out of books of account and by applying profit rate of 15% as shown by the assessee made addition of Rs.2,11,574/- accordingly. The AO further observed that the cash deposits in the bank account are undisclosed. Therefore, he made an addition of Rs.7,48,462/- being peak balance in the said bank account.

4. Being aggrieved the assessee filed an appeal before CIT(Appeal). Where in same submissions were made, however, CIT(Appeal) has observed that the cash deposits in the bank account are unexplained, therefore is sustained the addition of Rs.7,48,462/- made on account of peak credit balance. However CIT(Appeal) has deleted the addition of Rs.2,11,574/- being estimated profit @ 15% on the cash deposits of Rs.14.10 lacs appearing in the said bank account. However, the CIT(Appeal) has allowed credit of return of income of Rs.1,44,000/- has shown in the return of income.

5. Being aggrieved the assessee has filed this appeal before this tribunal. Ld. counsel submitted that the bank deposits are related to his business and the assessee is not disclosing income as per the provisions of section of 44AF of the Act, therefore the AO has rightly considered 15% profit on bank deposits of

Rs.14.10 lacs. Therefore, the CIT(Appeal) was not justified in considering in the peak of the cash deposits in the bank account.

6. Per contra the learned Sr. DR relied on the CIT(Appeal).

7. We have heard the rival submissions and perused the material available on record. We find that the total credits of Rs.14.10 lacs in the saving bank account of the assessee were considered as business receipts although unaccounted by the AO on which 15% profit was estimated and addition of Rs.2,11,574/- was made. Since the AO has considered the same as business receipts, therefore we are of the considered opinion that CIT(Appeal) was not justified in considering and making the addition on account of peak credit when the addition has already been considered on account of profit as per the provisions of section 44AF of the Act. Therefore, the addition to the extent of Rs.2,11,574/- is sustained and balance addition on account of peak credit of Rs.7,48,462/- is deleted. Further we find that the CIT(Appeal) has allowed credit of return of income at Rs.1,44,000/- from the addition of Rs.7,48,462/- sustained by him. In view of these, we are of the opinion that the credit of profit of Rs.97,500/- disclosed u/s 44AF @ 15% on sale of building material of Rs.6.50 lacs is allowable from the addition of Rs.2,11,574/-. In view of these facts the above grounds of appeal are partly allowed.

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

*Order pronounced in the open court on December 19, 2019*

Sd/-  
(N. K. Choudhry)  
Judicial Member

Sd/-  
(O. P. Meena)  
Accountant Member

Date: 19.12.2019

/GP/Sr. Ps.

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT(Appeals),
- (4) The CIT concerned
- (5) The Sr. DR, I.T.A.T.

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By Order