

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Before Shri Shamim Yahya (AM) & Shri Amarjit Singh (JM)

I.T.A. No. 6026/Mum/2018 (Assessment Year 2009-10)

Vijaya Rajkumar Bhogle Flat No. 71, 7 th Floor Advent Building General Bhosle Marg Mumbai-400 021. PAN : ADNPB9404D (Appellant)	Vs.	ITO-17(3)(5) Aayakar Bhavan M.K. Road Mumbai-400 020. (Respondent)
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Assessee by	Shri Subodh Ratnaparkhi
Department by	Shri Chaitanya Anjaria
Date of Hearing	03.09.2019
Date of Pronouncement	02.12.2019

O R D E R

Per Shamim Yahya (AM) :-

This appeal by the assessee is directed against order of learned CIT (A) dated 17.8.2018 and pertains to assessment year 2009-10.

2. The issue raised is that the CIT(A) erred in sustaining the addition of Rs. 25,23,267/- as unexplained deposit in the bank by an ex parte order.
3. In this case assessment was reopened for examining the issue of cash deposits in assessee's bank account.
4. Upon Assessing Officer's enquiry regarding the source of cash deposits in the bank assessee explained that assessee is engaged into beauty parlour business. That assessee has filed return under section 44AD of the act. The assessee's income from beauty parlour business was Rs. 16,77,871/-. Accordingly it was submitted that the profits shown in the profit and loss account are adequate. Assessee also submitted the copies of bank statement. The assessing officer held that total deposits in the bank account including cash, RTGS and cheque payment were rupees 42,01,138/-. He added the

difference between the gross receipt shown in the profit and loss account and the above bank deposit as unexplained income of the assessee.

4. upon assessee's appeal by an ex parte order learned CIT(A) confirmed the action of the assessing officer.

5. Against this order assessee is in appeal before ITAT. We have heard both the Counsel and perused the records. Learned counsel of the assessee submitted that the assessee's deposits in bank in cash are only rupees 21,18,426/-. He submitted that assessee's bank deposits include maturity proceeds of fixed deposit, income from agricultural business, transfer from Interbank accounts. Further learned counsel submitted that there was reasonable cause why the assessee was not presented before the learned CIT(A). In this regard assessee has also filed an affidavit before us. Learned counsel of the assessee prayed that the matter be matter to the file of assessing officer and the assessee may be allowed an opportunity to explain.

6. Upon careful consideration we find considerable cogency in the submission of the learned counsel of the assessee. In our considered opinion the interest of justice will be served if the matter is remitted to the file of assessing officer. The assessing officer is directed to consider the issue de novo in light of the submissions of the learned counsel of the assessee. Needless to add assessee should be granted adequate opportunity of being heard

7. In the result appeal filed by the assessee stands allowed for statistical purposes

Order has been pronounced in the Court on 02.12.2019.

Sd/-
(AMARJIT SINGH)
JUDICIAL MEMBER

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 02/12/2019

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//

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BY ORDER,

(Assistant Registrar)
ITAT, Mumbai