

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'E': NEW DELHI)**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 1188/Del/2017
(Assessment Year: 2008-09)**

Sh. Nanak Chand Bansal, H. No. 122, Sector-9, Faridabad, Haryana.	Vs.	Dy. Commissioner of Income Tax, Central Circle-II, Faridabad.
PAN No: AAUPC9499B		
APPELLANT		RESPONDENT

Assessee by : Shri Somil Agarwal, Adv.
Revenue by : Ms. Paramita M. Biswas, CIT(DR)

ORDER

PER ANADEE NATH MISSHRA, AM

[A] This appeal has been filed by the assessee against the impugned appellate order dated 20.01.2017 passed by Learned Commissioner of Income-Tax (Appeals), Karnal, [in short, "Ld.CIT(A)"] pertaining to Assessment Year 2008-09. The Assessee has raised following grounds of appeal:-

"1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in upholding the action of the Ld. AO in making an addition of Rs. 4,75,000/- on account of cash deposited in the bank account by treating as alleged income from undisclosed sources and that too in the proceedings u/s 153A of the Act in the absence of any incriminating material found during the course of search.

2. *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in making an addition of Rs. 4,75,000/- is bad in law and against the facts and circumstances of the case.*

3. *That the appellant craves the leave to add, alter or amend the grounds of appeal at any stage and all the grounds are without prejudice to each other. "*

(B) Search operation under Section 132 of Income Tax Act, 1961 ("I.T. Act", for short) was conducted in the case of the Assessee on 09.05.2012. The Assessment Order dated 26.02.2015 was passed by the Assessing Officer ("AO", for short) under Section 153A r.w.s. 143(3) of I.T. Act, wherein two separate additions of Rs. 2,25,000/- and Rs. 2,50,000/- (totaling Rs. 4,75,000/-) were made by the AO on account of cash deposits in assessee's bank account.

(B.1) Aggrieved, the assessee filed appeal before the Ld. CIT(A). Vide aforesaid impugned appellate order dated 20.01.2017, Ld. CIT(A) dismissed the assessee's appeal and confirmed the aforesaid additions totaling Rs. 4,75,000/-. This present appeal has been filed by the assessee against the aforesaid impugned appellate order dated 20.01.2017 of Ld. CIT(A). In the course of appellate proceedings in Income Tax Appellate Tribunal ("ITAT", for short) a Paper Book containing the following particulars was filed from the assessee's side:

1. Copy of notice u/s 153A dated 06.08.2013
2. Copy of acknowledgement of return filed on 10.09.2013 u/s 153A for AY 2008-09
3. Copy of Panchnama (H. No. 122, Sector-9, Faridabad) relating to search along with annexures.
4. Copy of statement of Sh. Suresh Bansal, son of the assessee, recorded during search.

5. Copy of notice u/s 143(2) dated 08.08.2014 along with questionnaire
6. Copy of assessee's reply dated 22.09.2014 filed before Ld. AO
7. Copy of assessee's reply dated 19.11.2014 filed before Ld. AO
8. Copy of assessee's reply dated 29.12.2014 filed before Ld. AO
9. Copy of assessee's reply dated 06.02.2015 filed before Ld. AO
10. Copy of assessee's reply dated 06.02.2015 filed before Ld. AO
11. Copy of show cause notice dated 21.01.2015
12. Copies Of Evidences Regarding Cash
 - I. Copy of bank statement of the assessee
 - II. Copy of detail of drawings of Bansal Family
 - III. Copy of Form-16 of the assessee
 - IV. Copy of acknowledgement of return filed on 18.03.2009 for
 - V. Copy of computation of income for AY 2008-09
13. Copy bank statement of the assessee showing dates of cash deposited into bank account.
14. Copy of assessment order dated 26.02.2015 passed u/s 153A / 143(3) for AY 2008-09.
15. Copy of written submissions filed before Ld. CIT(A).
16. Copy of Ld. CIT(A)'s order dated 20.01.2017 passed u/s 153A / 143(3) for AY 2008-09.

(B.2) A copy of order of Hon'ble Delhi High Court in the case of CIT vs Kabul Chawla (2015) 281 CTR 0045(Del), was also filed from the assessee's side, in the course of appellate proceedings in ITAT.

(C) At the time of hearing before us, the Ld. Counsel for assessee submitted that no incriminating materials were unearthed during the search, and therefore the aforesaid

additions totaling Rs. 4,75,000/- are unwarranted in view of the order of Hon'ble Delhi High Court in the case of CIT vs. Kabul Chawla. The Ld. Counsel for assessee contended that the issues in dispute are squarely covered in favour of the assessee, on facts of the case, by the aforesaid order of Hon'ble Delhi High Court in the case of CIT vs. Kabul Chawla (supra). The Ld. Counsel for assessee also submitted that, in any case, the aforesaid additions totaling Rs. 4,75,000/- are unwarranted in Assessment Year 2008-09 because the aforesaid deposits made in the bank account were not made in the bank account during the previous year relevant to Assessment Year 2008-09. He explained, with the help of the aforesaid Paper Book (with particular reference to the copy of bank account) that the aforesaid deposit of Rs. 2,25,000/- was made on 24.04.2008(erroneously recorded as 24.04.2008 by the AO in the Assessment Order). He further submitted that the aforesaid deposit of Rs. 2,50,000/- was made in the bank on 06.06.2008. Both the aforesaid transactions, he contended, pertained to Assessment Year 2009-10 and not to Assessment Year 2008-09 with which we are concerned in the present appeal. The Ld. Counsel for assessee accordingly contended, that the aforesaid additions are unwarranted in Assessment Year 2008-09 because the transactions do not pertain to relevant previous year. The learned Commissioner of Income Tax (Departmental Representative), ["Ld. CIT(DR)", for short], agreed that the aforesaid transactions of Bank deposits totaling Rs. 4,75,000/- do not pertain to previous year relevant to Assessment Year 2008-09(which we are concerned with in the present appeal) and that the additions are unwarranted in Assessment Year 2008-09. The Ld. CIT(DR) also did not controvert the contention of the Ld. Counsel for

assessee that on facts of the case, the issues in dispute are squarely covered in favour of the assessee by order of Hon'ble Delhi High Court in the case of CIT vs. Kabul Chawla (supra). In view of the foregoing, we set aside the aforesaid impugned appellate order dated 20.01.2017 of the Ld. CIT(A) and direct the AO to delete the aforesaid additions totaling Rs. 4,75,000/-.

(D) In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 29/01/2020.

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 29/01/2020
Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	