



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK 'SMC' BENCH, CUTTACK**

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

ITA No.252/CTK/2019
Assessment Year : 2016-17

Binod Kumar Agarwalla, 204, B Block, R.B. Place, Bomikhal, Rasulgarh, Bhubaneswar.	Vs.	ITO, Ward 3(1), Bhubaneswar
PAN/GIR No.ABMPA 9527 B		
(Appellant)	..	(Respondent)

Assessee by : Shri Mohit Sheth, AR
Revenue by : Shri Suresh Siva Nanda, Sr. DR

Date of Hearing : 29 /06/ 2020
Date of Pronouncement : 10/07/2020

ORDER

This is an appeal filed by the assessee against the order of the CIT(A)-2, Bhubaneswar dated 11.4.2019 for the assessment year 2016-17.

2. The grievance of the assessee in grounds of appeal is that the Id CIT(A) was not justified in confirming the addition of Rs.12,48,780/- made under the head "income from undisclosed sources".

3. Facts in brief are that during the course of assessment proceedings, the Assessing Officer noticed cash deposit of Rs.12,48,780/- in Bank account in State Bank of India (formerly State Bank of Mysore), Janapath, Bhubaneswar by the assessee. In response to Assessing Officer's requisition, the assesses stated that the cash deposit of Rs.12,48,780/- in

the bank is out of gross income of Rs.12,29,713/- and out of income from previous year. The Assessing Officer found that the income of the assessee from salary is Rs.7,20,000/- and income from rent, which were routed through banking channels. Hence, the AO observed that huge cash deposit in the bank is the income of the assessee from undisclosed sources and made the addition accordingly in the hands of the assessee.

4. On appeal, the Id CIT(A) confirmed the action of the Assessing officer on the ground that the assessee also could not justify the huge cash deposit of Rs.12,48,780/- before him.

5. Ld counsel for the assessee submitted that the Assessing Officer as well as Id CIT(A) has disputed the amount of Rs.12,48,780/- deposited in cash to the bank account of the assessee kept with SBI, Bhubaneswar A/c No.64120410742 during the financial year 2015-16 relevant to assessment year 2016-17. Ld counsel placed before me copy of the return of income filed by the assessee with the department for the assessment year 2016-17 and submitted that the assessee has received income from salary of Rs.7,20,000/-, rental income of Rs.3,66,000/- from two properties in cash, which was deposited to the said bank account. He further submitted that in addition to said cash receipt during the financial year, the assessee had closing cash balance at the end of the immediately preceding financial year as on 31.3.2015 of Rs.4,00,000/-, which was deposited in the present financial year 2015-16 as opening balance as on 1.4.2015. Therefore, the

amount of Rs.12,48,780/- cannot be and should not be disputed or doubted in any manner and no addition in this regard is called for and thus, the AO was not correct in making addition and Id CIT(A) was not justified in confirming the same.

6. Replying to above, Id Sr. DR submitted that as per the copy of letter of employer of the assessee M/s. Salasar Balaji Pharma, Bakharabad, Cuttack dated 5.11.2018, it is clear that the assessee had received partial salary of Rs.4,86,693/- through banking channel, therefore, this amount cannot be taken as reasonable justification for explain cash deposit by the assessee to his bank account. Ld DR submitted that the assessee has deposited huge amount of Rs.12,48,780/- to his bank account without any justification and explanation. Therefore, the AO was right in making addition and Id CIT(A) was correct in upholding the same.

7. I have heard the rival submissions and perused the appeal record of the Tribunal. On careful consideration of the submissions, first of all, from the letter dated 5.11.2018 of the employer of the assessee, it is clear that the salary payment to the assessee has been made through banking channel and no cash amount has been paid to the assessee as part and partial of salary. Therefore, I decline to accept partially this contention of Id counsel for the assessee that the amount deposited in cash to the bank account of the assessee was containing the amount of salary received by the assessee in cash.

8. So far as receipt of rent from two properties in cash is concerned, from the copy of return of income for assessment year 2016-17, I clearly observe that the assessee has shown income from rental from three properties and as per Id counsel for the assessee rent from State Bank of Mysore has been received through banking channel and rent from other two properties viz Sl.No.2.1 & 2.3 (income from house property) mentioned in the return of income was received in cash, which comes to Rs.66,000/- and Rs.3,00,000/-, respectively totaling to Rs.3,66,000/- and this fact has not been controverted neither by the revenue authorities nor by Id D.R. during the course of hearing before me. Therefore, this amount can be taken as partly sustainable explanation of the assessee explaining the impugned cash deposit to his bank account.

9. So far as opening cash balance of Rs.4,00,000/- is concerned, the assessee has submitted cash flow statement as well as copy of the return of income which reveals that there was opening balance of Rs.4,00,000/- at the beginning of the year as on 1.4.2015 brought forward from the preceding financial year 2014-15 which was deposited in the bank account of the assessee as cash in hand and this amount can be taken as partial sustainable explanation justifying the cash deposit to the bank account of the assessee.

10. Another contention of Id counsel for the assessee is that the assessee is income tax payee since assessment year 2007-08 showing

income and paying tax and from the period 2007-08 to 2015-16, the assessee has shown taxable income of more than Rs.24 lakhs and has also paid tax thereon. Therefore, for this financial status, remaining amount of cash deposit of Rs.4,82,780/- is also explainable. I do not agree with this contention of Id counsel for the assessee because when I have taken into consideration and given credence to the opening cash balance in hand of Rs.4 lakhs to the assessee, then no further reduction or deduction can be given to the assessee on account of his filing of return from assessment year 2007-08 till present assessment year 2016-17. I cannot ignore that during this period, there must be some drawings and investments by the assessee and this amount shown as income cannot be taken into consideration for justification of cash deposit to the bank account of the assessee

11. In view of foregoing discussion, I direct the Assessing Officer to delete Rs.7,66,000/- out of Rs.12,48,780/-. Hence, the addition of Rs.4,82,780/- is sustained.

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

Order pronounced on 10 /07/2020.

Sd/-
(Chandra Mohan Garg)
JUDICIAL MEMBER

Cuttack; Dated 10/07/2020
B.K.Parida, SPS

Copy of the Order forwarded to :

1. The Appellant : Binod Kumar Agarwalla, 204, B Block, R.B. Place, Bomikhal, Rasulgarh, Bhubaneswar
2. The Respondent. ITO, Ward 3(1), Bhubaneswar
3. The CIT(A)-2, Bhubaneswar
4. Pr.CIT- 2, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack