



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

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

ITA No.462/CTK/2017

Assessment Year : 2014-15

Sadasib Mohapatra, plot No.399/781/1933, Near HIG Duplex, Ananta Vihar, Phase-II, Pokhariput, Bhubaneswar.	Vs.	ITO, Ward 4(1), Bhubaneswar.
PAN/GIR No.AGFPM 4809 A		
(Appellant)	..	(Respondent)

Assessee by : Shri C.Parida, AR

Revenue by : Shri Subhendu Dutta, DR

Date of Hearing : 22 /10/ 2020

Date of Pronouncement : 05/11/2020

ORDER

This is an appeal filed by the assessee against the order of the CIT(A)-2, Bhubaneswar dated 25.7.2017 for the assessment year 2014-2015.

2. The appeal is time barred by 13 days. The assessee has filed condonation petition duly supported by affidavit stating the reasons therein. It is stated that due to illness, the assessee was advised bed rest by the doctor and, therefore, there was delay of 13 days in filing the appeal. After hearing the rival submissions and considering the reasons stated in the petition, we are satisfied that the assessee was prevented by sufficient cause for not filing the appeal in stipulated time period. Moreover, the

delay of short period should be condoned because the assessee was not going to gain anything out of it as held by Hon'ble Allahabad High Court in the case of Ganga Sahai Ram Swarup and another vs. ITAT, 271 ITR 512 (All). Hence, we condone the delay of 13 days and admit the appeal for hearing.

3. Ground No.1 of appeal is general in nature and hence, requires no separate adjudication.

4. Ground No.2 of appeal relates to addition of Rs.4,00,000/- as unexplained deposit in ICICI Bank account.

3. I have heard the rival submissions and perused the record of the case. Ld A.R. of the assessee submitted that the assessee has deposits of Rs.2,00,000/- each totaling to Rs.4,00,000/- in two bank accounts of ICICI Bank on 2.4.2013. He submitted that the sale proceeds of two days i.e. on 1.4.2013 and 2.3.2013 were Rs.2,94,040/- but the same were wrongly taken by the Assessing officer as Rs.46,160/- and Rs.52,240/-, respectively. Ld A.R. of the assessee filed ledger account for the period 1.4.2013 to 31.3.2014, placed on record, wherein, it is reflected that on 1.4.2013, amount of Rs.46,160/- and Rs.1,42,800/- and on 2.4.2013 an amount of Rs.1,54,240/- totaling to Rs.3,43,200/- was received as cash towards sales. He submitted that as per cash book, the opening balance cash in hand as on 1.4.2013 was Rs.1,97,550/- as is reflected in the cash book. Ld A.R.

submitted that the presumption of the AO that the assessee did not have enough cash to deposit Rs.4,00,000/- is on the basis of surmises and conjectures.

4. Replying to above, Id D.R. supported the orders of lower authorities.

5. On careful consideration of the rival submissions, I perused the ledger account as well as the cash book of the assessee for the period from 1.4.2013 to 31.3.2014. I found that the cash receipts of Rs.3,43,200/- has been reflected in the ledger account and in cash book, there was opening balance of Rs.1,97,550/-. If these opening balance and cash receipts are taken into consideration, then, the assessee has sufficient funds in its hand to deposit cash of Rs.4,00,000/- in two bank accounts. The AO has disbelieved the cash book as daily balancing was not done without considering the cash book and ledger account. In view of above, since the assessee has shown cash receipts and opening balance in hand, I am of the considered opinion that the assessee has duly proved the cash deposit of Rs.4,00,000/- and, accordingly, I delete the same. Ground No.2 of the assessee is allowed.

6. Apropos Ground No.3 of appeal, I have heard the rival submissions and perused the record of the case. The Assessing Officer observed that the assessee has made drafts of Rs.2,00,000/- on 17.4.2013 and draft of Rs.2,50,000/- on 26.4.2013 from undisclosed bank accounts. The AO made

the addition on the ground that the assessee could not even show that the assessee has sufficient cash to make the drafts, which was confirmed by Id CIT(A).

7. I find that the payment was made to Orissa State Beverages Corporation Ltd., through demand drafts by the staff of the assessee directly depositing the cash in banks. The contention of the assessee is that although the demand drafts were made to Orissa State Beverages Corporation Ltd., from two bank accounts of the assessee but due to some urgency and other compelling situation, the drafts were made from other bank accounts by depositing the cash by the staff members of the assessee. The mere fact that the bank accounts from where the DDs are purchases are not reflected in the balance sheet of the assessee is not a ground to disbelieve the drafts made by the assessee. On perusal of the cash book and ledger accounts of the assessee, I observe that the assessee has sufficient balance in its accounts to purchase the drafts in favour of Orissa State Beverages Corporation Ltd. Hence, I set aside the orders of lower authorities and delete the addition of Rs.4,50,000/- made u/s.69 of the Act. Ground No.3 of the assessee is allowed.

8. Apropos Ground Nos.4 to 11, I heard the rival submissions and perused the record of the case. The Assessing Officer has made estimated disallowance on the ground that the assessee could not submit supporting bills and vouchers in support of the expenses, which was confirmed by Id

CIT(A). Before me also, the assessee could not furnish any satisfactory explanation and evidence as to why the supporting evidences were not filed before the lower authorities. Even before the Tribunal, no evidences were filed. Hence, I am of the considered view that the lower authorities have taken a justified decision to estimate the disallowance. I concur with the same. Ground Nos.4 to 11 are dismissed.

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

Order pronounced on 05 /11/2020.

Sd/-
(Chandra Mohan Garg)
JUDICIAL MEMBER

Cuttack; Dated 05 /11/2020
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant Sadasib Mohapatra, plot No.399/781/1933, Near HIG Duplex, Ananta Vihar, Phase-II, Pokhariput, Bhubaneswar
2. The Respondent. ITO, Ward 4(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