

INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "SMC": NEW DELHI]
BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
(Through Video Conferencing)

ITA. No. 5789/Del/2018
(Assessment Year: 2009-10)

Smt. Nazia Begum Qureshi, C/o. U. S. Bhargava, 17, RamNagar, Ghaziabad. PAN: AACPQ7104K	Vs.	Income Tax Officer, Ward 2(5) Ghaziabad.
(Appellant)		(Respondent)

Assessee by :	Shri C. S. Anand, Advocate;
Revenue by:	Shri R. K. Gupta, Sr. D. R.;
Date of Hearing :	12/08/2021
Date of pronouncement :	12/08/2021

ORDER

PER PRASHANT MAHARISHI, A. M.

1. This appeal is filed by the assessee against the order of ld. Commissioner of Income Tax (Appeals), Ghaziabad dated 25.07.2018 for assessment year 2009-10 raising the following grounds of appeal:-

- "1. That the Ld Income Tax Officer completed the assessment without affording the reasonable opportunity at the end of the Assesses.*
- 2. That the Ld. Income Tax Officer as well as Ld. CIT (Appeal) erred in making an addition of Rs 13,50,000/- as income under the undisclosed sources under section 68 of the IT Act, 1961 by deeming that the assessee has not declared the said bank account with Canara Bank in her return of income filed for A/Y 2009-10. While the cash deposit are appearing in Axis Bank. Whereas the Bank Account with Canara Bank was opened only on 30.06.2015 i.e in F.Y 2015-16.*
- 3. That both A.O as well as Ld.CIT (Appeal) has not consider the cash flow chart submitted during the Assessment / Appellate proceedings.*
- 4. That the Ld. CIT (A) spell out the trading of cloth to little extend and not considered the sale of ladies cloth and garments under the category of sale of cloth. Whereas under the common Noun all variety of purchase and sale of cloths means and include cloth.*
- 5. That the addition as made above is excessive, arbitrary and uncalled for."*

2. The assessee is aggrieved by this order wherein, as the addition of Rs. 13,50,000/- was confirmed as income from undisclosed source u/s 68 of the Act of the sum deposited by the assessee in her bank account which was not disclosed. The assessee has solitary ground as per ground No. 2 of appeal.
3. Briefly stated the facts shows that the notice u/s 148 of the Act was issued to the assessee on 28.03.2016 for the reason that the assessee has deposited a sum of Rs. 13,50,000/- in cash in his bank account with Axis Bank. The ld AO issued verification letter on 15.01.2016 which was not responded. Therefore, the case of the assessee was reopened.
4. Before the ld AO the assessee only filed bank account statement and explained that she is engaged in trading of ladies garments on retail basis and filed her return of income on 28.03.2010 declaring income of Rs. 1,95,560/-. It was stated that assessee has bank account with Axis Bank submitted copy of the bank statement, computation of income and balance sheet. The ld AO noted that the assessee has not mentioned the bank account in her return of income wherein the cash is deposited. Therefore, he made an addition of Rs. 13,50,000/- and passed an order u/s 143(3) of the Act read with Section 147 of the Act on 26.12.2016 determining the total income of Rs. 15,46,060/-.
5. The assessee preferred an appeal before the ld CIT(A) wherein, the above addition was confirmed. The ld CIT(A) noted that the assessee filed return with wrong PAN for Assessment Year 2008-09 and did not declare the bank account where the cash is deposited. Therefore, this appeal.
6. The ld AR submitted a paper book containing Appendixes A to G wherein, the Axis Bank account has been shown, Appendix E and also appendix F. He also produced cash book at Appendix G. At appendix A he referred to return of income filed by the assessee along with bank statement at Annexure D. He also referred to the cash book and submitted that the cash deposited in the bank is out of her regular income. He also referred to one more paper book containing 31 pages. He referred to page 18 onwards of the same and submitted that the cash deposited by the assessee is her regular source of income from retail trade. He therefore, submitted that the addition

made by the ld AO and confirmed by the ld CIT(A) deserves to be deleted. He did not argue on any other aspect.

7. The ld DR supported the orders of the lower authorities. He submitted that before the learned assessing officer assessee has only submitted the copy of the bank statement, computation of income and balance sheet. There was no cash book before the learned assessing officer and therefore it was not explained by the assessee before the learned assessing officer that the cash deposited in her bank account is emanating from the business of the assessee. He extensively relied on para number 2, page number 2 of the assessment order. He further referred to the order of the learned CIT – A wherein the addition has been confirmed for the reason that it was not proved before him that whether the cash deposited in axis bank account of the assessee was explained from the available sources of income or not. Further the learned CIT – A has also raised doubt about the nature of the business of the assessee. He therefore submitted that the addition made by the lower authorities is justified.
8. We have carefully considered the rival contentions and perused the paper book submitted by the assessee electronically as well as physically (2 paper books). On the examination of the Axis Bank statement of the assessee, we find that the assessee has deposited cash of Rs. 13,50,000/- in her bank account. However, it is also apparent that the assessee has filed her return of income and placed her balance sheet as on 31.03.2009 and trading cum profit and loss account. The assessee has shown sales of Rs. 9,90,760/- and further stated to have realized the sums from the debtors. It is also found that the assessee has taken cash loan from his relatives of Rs. 98,600/- placed pat page 18 of the PB. Further the cashbook shown by the assessee records that the above sum of Rs. 13,50,000/- was the sum recorded in the cashbook. However, the learned CIT – A and the learned assessing officer did not discuss all these above documents wherein it is apparent that the cash deposited by the assessee in her bank account was duly recorded in the cash book filed before us. It is not death referred from the orders of the lower authorities that such cashbook was also filed before the lower authorities. Therefore, apparently it is shown that the cash deposited in the bank account has emanated from the cashbook. However,

the cashbook remains on examined by the lower authorities. Further , as all these issues were not discussed before the lower authorities by the assessee, in the interest of justice, we remitted back the whole issue to the file of the ld AO and assessee is directed to show that the sum of Rs. 13,50,000/- deposited in her bank account is out of her business income,. The learned assessing officer is directed to examine the cashbook and if it is found that the cash deposited in the bank account has emanated from the business of the assessee, no addition is required to be made. If the AO is not satisfied on examination of the cashbook, he may decide the issue in accordance with the law after giving assessee a proper opportunity of hearing. In view of this ground No. 2 of the appeal of the assessee is allowed with above direction.

9. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 12 /08/2021.

-Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

-Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Dated:12 /08/2021.

AKKEOT

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

ASSISTANT REGISTRAR
ITAT, New Delhi