

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Before Shri Shamim Yahya, Accountant Member

I.T.A. No. 7748/Mum/2019
(Assessment Year 2007-08)

| | | |
|---|-----|--|
| Aradhana S.Jain 3/14, Ahoora Mahal 3, Marine Drive Mumbai-400 002 PAN : ABAPJ2316D (Appellant) | Vs. | ITO-14(1)(3) 3 rd Floor, Kautilya Bhawan 'G' Block, BKC Mumbai-400 051 (Respondent) |
|---|-----|--|

| | |
|-----------------------|---------------------------|
| Assessee by | None |
| Department by | Shri Abhirama Karthikeyan |
| Date of Hearing | 16.12.2021 |
| Date of Pronouncement | 16.02.2022 |

O R D E R

Per Shri Shamim Yahya (AM) :-

This appeal by the assessee is directed against the order of learned Commissioner of Income Tax (Appeals)-53 dated 16.09.2019 and pertains to assessment year 2007-08.

2. Grounds of appeal read as under:-

1. The learned Commissioner of Income Tax-Appeals - "CIT(A)" erred in confirming that proper opportunity to represent the case to the appellant was provided by the Assessing Officer (AO). Your appellant submits that the copy of the statements recorded under oath of Shri Rajendra Jain, Shri Sanjay Choudhary and Shri Dharmichand Jain were not provided and no opportunity to cross examine the same was provided. ; .
2. The learned CIT(A) has erred in confirming an addition of Rs. 3,12,680/- on account of Unexplained Cash Credit u/s. 68 of the I.T. Act, 1961.
3. The learned CIT(A) has erred in confirming an addition of Rs. 2,95,752/- on account of Unexplained Cash Credits in ICICI Bank, Marine Drive Branch.

3. Brief facts of the case are that assessee in this case is an individual. The case was reopened pursuant to search and seizure on Rajendra Jain Group. It was found in the search that Smt. Aradhana Sandeep Jain, the assessee has taken accommodation entries from this group for the amount of Rs. 1,40,000/- by booking purchase from Vitrag Jewels. During assessment proceedings, AO made two additions one was by adding the entire business receipts amounting to Rs. 3,12,680/- on the ground that assessee has engaged into bogus purchases. Another Rs. 2,95,752/- was added as unexplained cash deposit in bank account, on the ground that assessee has not properly explained the same. Before the Id.CIT(A), assessee also submitted additional evidences, Id.CIT(A) held that additional evidences cannot be admitted and at the same time also examined the documents rejected the same and thereafter again held that additional evidences are not admitted.

4. Against the above order, assessee is in appeal before the ITAT.

5. I have heard the Id. DR and perused the records. I find that when the assessee's business has been considered to be bogus and purchases are held to be bogus how can the entire sale receipts of Rs. 3,12,680/- be considered as addition to u/s. 68 is beyond comprehension. When the entire business receipts is being added, how can the cash deposits in bank be also added again as it will result in double taxation not permissible under the Act. Furthermore, assessee has also submitted additional evidences, which the Id.CIT(A) has examined and rejected and thereafter also held that same has not been admitted. Such an order by the Id.CIT(A) is not at all sustainable. In the interest of justice, I remit the issue to the file of AO. AO directed to examine the issue afresh in light of the observations hereinabove.

6. In the result, assessee's appeal is allowed for statistical purpose.

Pronounced in the open court on 16 .02.2022

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 16 .02.2022

Thirumalesh, Sr.PS

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//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai