

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Shri Shamim Yahya (AM)

I.T.A. No. 7864/Mum/2019 (A.Y. 2013-14)

M/s. South Ocean Transport Pvt. Ltd. 306, 3 rd Floor, VTM-II Building, Mehra Compound Andheri Kurla Road Sakinaka, Andheri East Mumbai-400 072. PAN : AAKCS8236K (Appellant)	Vs.	ITO-11(2)(3) Aayakar Bhavan M.K. Road Churchgate Mumbai-400 020. (Respondent)
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Assessee by	Shri Fenil Bhatt
Department by	Shri T. Sankar
Date of Hearing	11.01.2022
Date of Pronouncement	23.03.2022

ORDER

This appeal by the assessee is directed against the order of learned CIT(A) dated 23.10.2019 pertains to A.Y. 2013-14.

2. The ground of appeal reads as under :-

“On the facts and in the circumstances of the case and in law, CIT(A) erred upholding the action of the Assessing Officer of treating cash deposited in the bank account as unexplained cash credit under section 68 of the Act. The CIT(A) ought to have deleted the addition made by the Assessing Officer.”

3. Brief facts of the case are that assessee is engaged in the logistic business/service provider and serves client for import and export shipments executed from various port of the world by sea as well as air mode. The AO in course of assessment proceedings noted that cash deposits of Rs. 24,09,000/- were there in the assessee's bank account. On query in this regard assessee explained that it has received cash from various customers and the same were withdrawn for payment to government account for custom duties on behalf of

the customers. The addresses of the customer were also given to the assessing officer. Without examining these aspects the assessing officer proceeded to reject the assessee's explanation. Learned CIT(A) also without going into the facts of the case referred to a plethora of case laws and rejected the assessee's claim.

4. Against this order assessee is in appeal before the ITAT.

5. I have heard both the parties and perused the records. Learned counsel of the assessee reiterated the claim that the amount deposited was received from customers for payment of Customs duties which were subsequently withdrawn and paid to government account on behalf of customers. The learned counsel submitted voluminous paper book in support of the claim. I note that even the Assessing Officer in his order has noted that there are corresponding withdrawals in the bank the statement. This fact coupled with the fact of the assessee's nature of business which the assessing officer has himself noted it is amply clear that assessee explanation has prima facie cogency. Without cogently rebutting the explanation of the assessee the addition is not a sustainable as it clearly shows lack of application of mind by the authorities below.

6. In the interest of justice, I remit the issue to the file of assessing officer. The assessing officer is directed to examine the assessee's claim along with the submissions in this regard and thereafter pass an order as per law. Needless to add assessee should be granted adequate opportunity of being heard. Both the parties agreed to the above.

7. In the result assessee's appeal is allowed for statistical purposes

Order pronounced in the open court on 23.3.2022.

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 23/03/2022

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//

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BY ORDER,

(Assistant Registrar)
ITAT, Mumbai