

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No. 528/Asr/2018
Assessment Year: 2010-11**

Shri Irfan Ahmed Goni, R/o H.No. E.P.301, Mohalla Dalpatian, Jammu. [PAN:-AYEPG2475K] (Appellant)	Vs.	ITO Udhampur. (Respondent)
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Appellant by	Sh.Anil Gupta, CA.
Respondent by	Sh.S. M. Surendranath, Sr. DR.

Date of Hearing	24.08.2022
Date of Pronouncement	26.08.2022

ORDER

Per:Anikesh Banerjee, JM:

The instant appeal was filed by the assessee against the order of the Id. Commissioner of Income Tax(Appeals), Jammu, [in brevity the CIT(A)] bearing appeal no. 185/13-14, date of order 17.08.2018, the order passed u/s 250(6) of the Income Tax Act 1961, [in brevity the Act] for A.Y.2010-11. The impugned order

was originated from the order of the Id. Income Tax Officer, Udhampur, order passed u/s 144 of the Act, date of order 28.03.2013.

2. Brief fact of the case is that the assessee in his minor age with two major had opened bank account on July 1981. The two majors are in relation of father and uncle of assessee. The PAN was used of his father in the bank account, maintained by the Jammu Central Cooperative Bank Ltd, bearing account 1656. The certificate from bankers is enclosed in APB page no. 22 as proof of existence of account. In the financial year under appeal the assessment was completed u/s 144 and addition was made in deposit of cash in saving bank account. During the assessment year under appeal the assessee was major and bank account is maintained by his uncle and father. The PAN number of the assessee is AYEPG2475K. But the assessment was completed in the name of assessee by mistake as “ARFAN AHMED GONI” instead of “IRFAN AHMED GONI”. The PAN number was used in assessment order ABMPG4756G which is related to his father, Mr. Tariq Ahmed Goni. The deposit of cash in bank account for F.Y. 2009-10 another assessment was completed related to the same account number of Jammu Central Cooperative Bank Ltd against Mr. Tariq Ahmed Goni, bearing PAN no. ABMPG4756G. The assessment was completed by the Id. ITO, Ward 2(4), Udhampur and the deposit of

cash was discussed, in the order sheet and assessment was completed after accepting the same. No addition was made for depositing the cash in bank account. The extract of relevant part from the assessment order of Mr. Tariq Ahmed Goni for A.Y. 2010-11 date of order 20.07.2017 is reproduced here in below:-

“2. A notice under section 148 was issued to the assessee at his address shown in the return of income for the purpose to reassess income after recording the reasons. Thereafter a letter regarding assessment proceedings under section 148 asking the assessee to explain the source of cash deposits in the SBI bank account amounting to Rs 12,22,600/- was issued along with a notices u/s 142(1) on 28.04.2017 fixing the case for hearing on 12.05.2017. On the date of hearing neither anybody appeared nor any written reply was furnished by the assessee. However on 18.05.2017, Counsel of the assessee Sh Anil Gupta, C.A appeared and filed return of income in response to the notice under section 148 alongwith bank account statements and bills. In the reply he has stated that cash deposit in the saving account maintained with Jammu Central Co-operative bank, Bhaderwah is out of the sale proceeds of the small book shop of the assessee under the name and style M/s Goni Book, shop, Bhaderwah. On 16.06.2017 a letter asking the assessee to produce Bank account statement of Jammu and Kashmir bank as earlier submitted was not legible and also asked furnish the copy of registration under shop and

establishment act to establish the existence of the shop fixing the case for hearing on 23.06.2017. Finally on 19.07.2017, Sh Anil Gupta C.A appeared on behalf of the assessee and filed detailed reply which is placed on record. Case was discussed and after discussion, returned income is accepted.”

3. The ld. AO made the addition amount of Rs.11,66,600/- and Rs.3 lac total amount of Rs. 14,66,600/- was added back with the total income of the assessee related to same bank account.
4. Aggrieved assessee filed an appeal before the ld. CIT(A). The ld. CIT(A) upheld the addition amount of Rs.11,66,600/- and reduce the addition amount to Rs.1,20,000/- related addition of Rs.3 lac.
5. Being aggrieved assessee filed an appeal before us.
6. The ld. Counsel for the assessee vehemently argued and filed a written submission which is containing pages 1 to 32 which is kept in the record. The ld. Counsel also argued that the assessee was a party of saving bank account in 1981 when he was minor. The bank was operated by his father, Mr. Tariq Ahmed Goni and uncle, Mr. Sayed Ahmed Goni bearing account no. 1656 at the Jammu Central Cooperative Bank Ltd. (in brevity JCCB). The date of birth of the assessee is 31.01.1980. During the assessment year 2010-11 the assessee attaining in the age

of majority. The assessment was made by the AO by mentioning the wrong PAN. Though the assessee is allotted the PAN AYEPG2475K by the Income Tax Department, so the entire assessment order is infructuous and liable to be quashed.

7. The ld. Sr. DR argued and relied on the order of ld. CIT(A) but the revenue authority was unable to bring any different fact before the bench.

8. We heard the rival submission and considered the documents available in the record. The assessment of the assessee was made after attaining the age of majority in relation to the deposit of cash in bank account. The source of deposit was already accepted by the revenue authority in the hands of father related to assessment order as mentioned above for same bank account. The PAN of the assessee was wrongly mentioned including the erroneous name in assessment order. The revenue authority was errored to make addition in the hand of the assessee which was not related at all to assessee. The deposit of cash in the bank is recorded in the books of accounts of M/s Goni Book Shop Bhaderwah which is related to his father & uncle. The two assessments cannot be done under the same PAN. The revenue assessed the assessee under wrong PAN. The entire order of assessing authority is non-est. The assessment order passed by the AO is itself erroneous and liable to be quashed.

9. In the result, the appeal of the assessee **ITA No.528/Asr/2018** is allowed.

Order pronounced in the open court on 26.08.2022

Sd/-

(Dr. M. L. Meena)
Accountant Member

Sd/-

(ANIKESH BANERJEE)
Judicial Member

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By Order