

**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. 328/Asr/2019
Assessment Year: 2009-10**

Shri Zurar Muhammad Dhar, Ummar, Colony Lane no.3 Lal Bazar Srinagar. [PAN:- AEYPD1519H] (Appellant)	Vs.	ITO Ward-3(1), Srinagar. (Respondent)
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Appellant by	None.
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)-1, Amritsar, [in brevity the CIT(A)] bearing appeal no. 311/2016-17, date of order 18.03.2019, the order passed u/s 250(6) of the Income Tax Act, 1961, [in brevity the Act] for A.Y. 2009-10.

The impugned order was originated from the order of the Id. Income Tax Officer, Ward-3(3), Srinagar, Kashmir, order passed u/s 144/147 of the Act date of order 29.11.2016.

2. Brief facts of the case are that the assessee's case was reopened on basis of the AIR Information available on AST, related to cash payment against credit card bill amount of Rs.3,02,838/- during the financial year 2008-09. The assessee earned salary Rs.8,15,663/- from M/s Systopic Laboratories Pvt. Ltd. and earned interest from bank & had not filed his IT return during the assessment year. The assessment was completed u/s 144 and addition was made related to deposit of cash in credit card account with HDFC Bank related amount to Rs.3,02,838/- and the salary and interest amount of Rs.8,15,663/- and Rs.17,508/- respectively which is worked out total amount of Rs.8,35,447/- which was added back with the total income of the assessee.

3. Aggrieved assessee filed an appeal before the Id. CIT(A). The appellate authority upheld the order of the AO. Being aggrieved assessee filed an appeal before us.

4. During the appellate proceeding assessee filed a written submission which is extracted by the CIT(A) is reproduced as below:

“In the appeal proceedings the appellant had submitted his written submissions, It was stated that assessee is an employee of M/s Systopic

Laboratories P ltd from where assessee received salary in his bank account after deduction of income tax. The addition made by AO in respect of deposits which were actually the salary receipts from the company. Further the assessee has made credit card payments out of the said salary account out of salaries receipts only. The assessee has never received any notice from department as assessee was out of the state during the concerned period of assessment proceedings for treatment of his wife suffering from cancer.

Decision- In the written submission filed by the appellant in the appeal proceedings it was stated that assessee is an employee of M/s Systopic Laboratories P ltd from where assessee received salary in his bank account after deduction of income tax. The addition made by AO in respect of deposits which were actually the salary receipts from the company. Further the assessee has made credit card payments out of the said salary account out of salaries receipts only.

The assessee has not filed his return of income nor filed form 16 from his employer M/s Systopic Laboratories P Ltd. The assessee further did not furnish his bank statements of the bank account where the salary of the assessee was credited and from where the credit card of the assessee was operating by debiting the cash payments through credit card, Therefore the appellant has not established his claim that the said credit card payments were made through his salary income only. In absence of these details and evidences, the assessment order cannot be interfered with and for the reasons given in the impugned assessment order, the addition of Rs.3,02,838/- and Rs.3,85,447/- is confirmed.”

5. The Id. Sr. DR vehemently argued and relied on the order of the revenue authorities.

6. After a thoughtful consideration of the documents available in the record & the orders of revenue authorities, the matter is adjudicated as below. The assessee is not filed his return, u/s 139(1) of the Act during the assessment year under consideration. The additions were made related to deposit of cash in credit card account and salary earned by the assessee and the interest earned from bank. The source of the deposit in cash was from salary. Neither the assessing authority nor the appellate authority had made any verification related to deposit of cash and related to earning of salary. None of the revenue authorities made any verification to employer, or bank or credit card authority related to those transactions of assessee. The entire addition was made on the basis of the AIR DATA. For ascertaining the total income mere verification is required by the revenue authorities. Further the assessment was made u/s 144. Even the Id. CIT(A) did not take any cognizance to complete the proceeding to allow the opportunity to AO to complete the verification. The entire addition was on basis of assumption & presumption. Accordingly, the order of the CIT(A) is setting aside. The matter is remanded back to Id. CIT(A) for further adjudication. Needless to say, that the

CIT(A) shall provide proper and adequate opportunity of being heard to the assessee in set aside proceedings. The evidence/explanations submitted by assessee in its defense shall be admitted by CIT(A), and adjudicated by CIT(A) on merits in accordance with law. We order accordingly.

8. In the result, the appeal of the assessee in **ITA No.328/Asr/2019** is allowed for statistical purposes.

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