

**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.52/Asr/2019
Assessment Year: 2015-16**

Mohammad Ibrahim Dar, H.No. 4, Dar Mohalla Soura Srinagar. [PAN: AGSPD6964A] (Appellant)	Vs.	ITO, Ward-2, Srinagar. (Respondent)
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Appellant by	None.
Respondent by	Ms. Amanpreet Kaur, Sr.DR

Date of Hearing	26.09.2022
Date of Pronouncement	29.09.2022

ORDER

Per:Anikesh Banerjee, JM:

The instant appeal of the assessee is filed against the order of the Id. Commissioner of Income Tax(Appeals)-2, Ludhiana, [in brevity the CIT(A)] bearing appeal No.209/ROT/IT/CIT(A)-2/LDH/2018-19, date of order 14.12.2018, the order passed u/s 250(6) of the Income Tax Act 1961, [in brevity the Act] for

A.Y. 2015-16. The impugned order was originated from the order of the Id. Income Tax Officer, Ward-2, Srinagar, (in brevity the AO) order passed u/s 143(3) of the Act date of order 19.09.2017.

2. The brief fact of the case is that the assessee was assessed u/s 143(3) with addition for payment of credit card related to deposit of cash in bank account amount of Rs.60,000/- and Rs.39,000/-. Both the amount was added back with the total income for unexplained cash deposited in bank accounts in J & K bank and HDFC bank. The assessee deposited cash amount of Rs.33,85,416/-, as per calculation of Id. AO. The assessee's turnover of business was Rs.45,63,494/-. The Id. AO adjusting the turnover with cash deposit balance amount Rs.11,78,078/- was added back as unexplained cash deposited in bank account with the total income of the assessee. Being aggrieved, the assessee filed an appeal before the Id. CIT(A). The Id. CIT(A) upheld the order of the Id. AO.

3. Aggrieved assessee filed an appeal before us.

4. During the hearing none was present on behalf of the assessee. The matter is taken up with the consent of the Id. Sr. DR for further adjudication.

5. We perused the submission of Id. Sr. DR and considered the order of both the revenue authorities. The Id. Sr. DR first pointed out the order of the Id. CIT(A) in para 6.2 which is reproduced as below: -

“6.2 I have considered the observations of the Assessing Officer as made by him in the assessment order while making the impugned additions. I have also considered written submissions filed by the assessee through his learned AR vide letter dated 04.12.2018 on the issues under reference. I have further considered other material placed by the learned AR of the assessee on record. On careful consideration of the assessment order, it has been noticed that the Assessing Officer has made the impugned additions as the assessee could not explain the source of these payments. On the other hand, the learned AR of the assessee has submitted that the Assessing Officer has exceeded his jurisdiction by making both of these additions as the case of the assessee was selected for limited scrutiny on the issue of payments against credit cards of J&K Bank and HDFC Bank. On merits, it has been submitted that the payment of Rs.60,000/- represent sale made by the assessee and other payment of Rs.39,000/- has been made out of loan raised. On careful consideration of the rival contentions, I am of the opinion that the assessee could not reconcile the

payments against credit card even during appellate proceedings. In the absence of any correlation, no relief can be allowed to the assessee. Under such circumstances, the action of the Assessing Officer in making additions of Rs.60,000/- and Rs.39,000/- in this case on account of unexplained credit card payments against J&K Bank and HDFC credit cards cannot be said to be unjustified and both the additions made by the Assessing Officer deserves to be upheld. Having said so, the additions of Rs.60,000/- and Rs.39,000/- made by the Assessing Officer in this case on account of unexplained credit card payments against J&K Bank and HDFC credit cards are, therefore, upheld. In the result, the grounds No. 2 and 3 of appeal taken by the assessee are dismissed.”

6. We heard the submission of the ld. Sr. DR and considered the documents available in the records. The addition was made for cash deposit for payment to credit card account amount was Rs.60,000/- and 39,000/-. Both the amount was explained by the assessee during assessment proceeding. But both the addition are explained by the assessee during appeal proceeding and as per the explanation of the assessee the amount of Rs. 39,000/- was paid from load raised by bank which was later converted to monthly EMI& Rs. 60,000/- was paid out of sales proceed.

The Id. CIT(A) incorporated the explanation of assessee in his order in the para 3 which is reproduced as below:

“3.The assessee during the year has also used HDFC credit card and the payment stands made out of bank account, except two payments of Rs 39,000.00 stands made on 29/01/2015 by availing credit card loans from the Bank, which later on stands repaid in the form of monthly EMIs. The Ld. AO has treated payments to credit card amounting to Rs 39000.00 on 29/01/2015 as expenditure incurred from unexplained sources. The said payments of Rs 20000.00 & Rs 19000.00 made on 29/01/2015 represents loans raised from Bank, and the said fact also stands explained to the AO. For reference, the copy of credit card statement is enclosed. Further the said payment represents non cash credits, therefore are beyond the scope of assesses scrutiny, as such addition deserves to be deleted”

7. Related to addition of cash deposit in bank amount of Rs.11,78,078/- the total cash trial was not verified any of the revenue authorities. The movement of the deposit and withdraw of the cash should be verified. So, the explanation provided by the assessee was duly verifiable and should be taken cognizance by the Id. CIT(A). So,we set aside the order of the Id. CIT(A) for further adjudication

related to addition made by the Id. AO. Needless to say, the assessee should get reasonable opportunity of hearing for his case and documents which will be filed by the assessee should be accepted and considered during hearing.

8. In the result, the appeal bearing **ITA No.52/Asr/2019** is allowed for statistical purposes.

Order pronounced in the open court on 29.09.2022

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