

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'SMC' NEW DELHI**

SHRI SAKTIJIT DEY, JUDICIAL MEMBER

ITA No.3171/Del/2018
Assessment Year: 2008-09

Shri Anil Sharma, C-60/E, Ground Floor, Gali No.6, Majlis Park, New Delhi	Vs.	ITO, Ward 36(2), New Delhi
PAN :ANCPS3320E		
(Appellant)		(Respondent)

Appellant by	Shri Jaspal Singh Sethi, Adv.
Respondent by	Shri Om Parkash, Sr. DR

Date of hearing	25.08.2022
Date of pronouncement	17.11.2022

ORDER

This is an appeal by the assessee against order dated 17.01.2018 of learned Commissioner of Income-Tax (Appeals)-12, New Delhi for the assessment year 2008-09.

2. The dispute in the present appeal is confined to addition of an amount of Rs.5,00,000 under Section 68 of the Income-Tax Act,1961.

3. Briefly, the facts are, the assessee is resident individual. For the assessment year under dispute, assessee filed his return of income on 29.07.2008 declaring income of Rs.84,060.

4. As observed by the assessing officer, assessee derives income from truck hire business for transporting fruits and is also engaged in trading of shares.

5. In course of assessment proceedings, the assessing officer while making random inquiry through notices issued under Section 133(6) of the Income-Tax Act,1961 found that in the year under consideration, assessee had paid an amount of Rs.2,00,000 to M/s. Indiabulls Securities Ltd. Further, he found that the assessee deposited cash aggregating to Rs.3,00,000 in Standard Chartered Bank. Alleging that the assessee could not explain the source of deposits in Indiabulls Securities Ltd. and Standard Chartered Bank, the assessing officer added back the amount of Rs.5,00,000 to the income of the assessee. Assessee contested the addition before the first appellate authority and thereafter before the Tribunal.

6. While deciding assessee's appeal, the Tribunal in order dated 07.07.2015 passed in ITA No.3501/Del/2014, being of the view that

the assessing officer has completed the assessment in a hurried manner without providing adequate opportunity to the assessee to explain the source of the deposits with Indiabulls Securities Ltd. and Standard Chartered Bank, restored the matter back to the assessing officer for fresh adjudication. While deciding the issue in the fresh assessment, the assessing officer again made identical addition, which stood confirmed by learned first appellate authority.

7. Before me, learned counsel appearing for the assessee submitted that out of the total payment of Rs.2,00,000 to Indiabulls Securities Ltd., an amount of Rs.1,41,000 was through account payee cheque issued from the Standard Chartered Bank account, whereas, an amount of Rs.59,000 was deposited in cash. He submitted, total cash in hand available with the assessee after business and household expenses was to the tune of Rs.3,83,646. Thus, he submitted, the cash deposit made with Indiabulls Securities Ltd. and Standard Chartered Bank was out of such cash in hand.

8. Learned Departmental Representative strongly relied upon the observations of the assessing officer and learned Commissioner (Appeals).

9. I have considered rival submissions and perused the material available on record.

10. On a perusal of bank statement relating to Standard Chartered Bank, I am convinced that an amount of Rs.1,41,000 paid to Indiabulls Securities Ltd. is through cheque issued from Standard Chartered Bank account. Therefore, the source of Rs.1,41,000 stands explained.

11. As regards, the balance amount of cash deposits of Rs.3,59,000 in Standard Chartered Bank and India Bulls Securities Ltd., it is the case of the assessee that the source of such deposit was out of the cash in hand available with the assessee. It is a fact on record that the assessee is in the business of transporting fruits and has offered income on presumptive basis under Section 44AE of the Act. From the cash flow statement submitted before me, it is observed that after reducing the actual business and household expenses, cash in hand available with the assessee was to the tune of Rs.3,83,646. Therefore, the claim of the assessee that the balance cash deposits are out of cash in hand is believable. Accordingly, I delete the addition of Rs.5,00,000 made under Section 68 of the Income-Tax Act,1961.

12. In the result, the appeal is allowed.

Order pronounced in the open court on 17th November, 2022.

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 17th November, 2022.
Mohan Lal

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi

Sl. No.	Particulars	Date
1.	Date of dictation (Order drafted through Dragon software):	11.11.2022
2.	Date on which the draft of order is placed before the Dictating Member:	14.11.2022
3.	Date on which the draft of order is placed before the other Member:	-
4.	Date on which the approved draft of order comes to the Sr. PS/PS:	16.11.2022
5.	Date of which the fair order is placed before the Dictating Member for pronouncement:	16.11.2022
6.	Date on which the final order received after having been singed/pronounced by the Members:	21.11.2022
7.	Date on which the final order is uploaded on the website of ITAT:	21.11.2022
8.	Date on which the file goes to the Bench Clerk	21.11.2022
9.	Date on which files goes to the Head Clerk:	
10.	Date on which file goes to the Assistant Registrar for signature on the order:	
11.	Date of dispatch of order:	