

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC”: NEW DELHI**

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 5788/DEL/2019
Assessment Year: 2010-11

Pawan Kumar Bisla, H. No. 68, Village Jabala, P.O. Salwan, Distt. Karnal. PAN- BFHPK0308G	<u>Vs</u>	Income-tax Officer, Ward-3, Karnal
APPELLANT		RESPONDENT
Assessee represented by	None	
Department represented by:	Shri Sumesh Swani, Sr. DR	
Date of hearing	05.12.2022	
Date of pronouncement	08.12.2022	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), Karnal, dated 23.04.2019, pertaining to the assessment year 2010-11. The assessee has raised following grounds of appeal:

“1. On facts and in law the learned CIT(Appeals) is not justified in retaining addition of Rs. 4,19,823/- made by learned Assessing Officer.

2. On facts and in law the learned CIT(Appeals) is not justified in levying high rate of 8% as against the maximum rate of 5% as prescribed under section 44AF.

3. On facts and in law the learned CIT(Appeals) and the learned Assessing Officer is not justified in treating all cash deposit of Rs. 77.29 lacs in bank accounts as sales despite giving all the details of cash deposits and

withdrawals such as cash account and sales detail as additional evidence before learned CIT(Appeals).

2. At the time of hearing no one attended the proceedings on behalf of the assessee. It is seen from the record that no one has been attending the proceedings on behalf of the assessee since 21.12.2020. Various notices of hearing sent to the assessee at the address provided in form no. 36 have been returned unserved with the postal remarks “incomplete address”. The assessee has not provided any other address to the Registry. Therefore, the appeal is taken up for hearing in the absence of the assessee and is being decided on the basis of material available on record.

3. In this case the assessment was reopened on the basis that the assessee had made cash deposits amounting to Rs. 77,29,040/-. In response to the notice u/s 148 of the Income-tax Act, 1961 (in short “the Act”), the assessee filed his return of income declaring income at Rs. 1,98,500/- on gross receipts of Rs. 39,70,000/-. The Assessing Officer after considering the submissions and the explanation made by the assessee, assessed income at Rs. 6,18,323/- vide order dated 15.12.2017. Aggrieved against this, the assessee preferred appeal before the learned CIT(Appeals), Karnal, who after considering the submissions, dismissed the appeal. Now the assessee is in appeal before this Tribunal.

4. Learned Sr. DR, apropos to the grounds raised by the assessee, supported the orders of the authorities below and submitted that the Assessing officer has applied profit @ 8% on the gross receipts of Rs. 77,29,040/-. The same is justified as the assessee failed to give any explanation.

5. I have heard learned DR and perused the material available on record. I find that the learned CIT(Appeals) has decided the issue by observing as under:

“3.4 I have examined the facts of the case, the submissions made by the assessee, the Assessing Officer's (A.O.) remand report dated 31.01.2019 (mentioned supra) and the assessee's counter comments. The case was reopened u/s 147 of the IT Apt, 1961 on account of verification of the source of cash deposits amount to Rs. 77,29,040/- (Rs. 31,84,920/- in PNB, Assandh, Rs. 30,62,020/- in OBC, Assandh and Rs. 14,82,100/- in HDFC Bank). An addition of Rs. 6,18,323/- was made @ 8% on gross receipts of Rs. 77,29,040/- (cash deposits) treating the deposits as turnover on account of sale and purchase of vegetables. It is seen that there was no evidence submitted in support of the said business of sale of vegetables and specifically in account of tomatoes. The appellant has at all stages (assessment, remand and appellate) sought to obtain shelter behind the plea that vegetables were purchased directly from farmers and sold in the market without invoices being raised. He has also sought to state that cash withdrawals from each of the three banks accounts also entailed redeposits out of the same. The statement of the assessee recorded during the assessment proceedings (Annexure 'A') clearly shows that the assessee admitted to having no evidence in support of the explanation regarding the said deposits. Therefore, I am of the opinion, that the AO was perfectly justified in making the said addition. The appellant has not provided any shred of evidence regarding the source of the said deposits. I, therefore, confirm the said addition.

These grounds of appeal are dismissed.”

6. The above finding of the learned CIT(Appeals) is not rebutted by the

assessee by placing any contrary material on record. Therefore, I do not see any reason to interfere in the order of the learned CIT(Appeals) and the same is affirmed.

7. The appeal of the assessee is dismissed.

Order pronounced in open court on 8th December, 2022.

**Sd/-
(KUL BHARAT)
JUDICIAL MEMBER**

MP

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**