

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC" NEW DELHI**

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

आ.अ.सं./I.T.A No.9028/Del/2019

निर्धारणवर्ष/Assessment Year: 2015-16

Naresh Kumar H.No. 22638, Ward No. 5, Vill., Main Chowk Tosham, Bhiwani, Haryana.	बनाम Vs.	ITO Ward 2, Bhiwani, Haryana.
PAN No. AENPK5376E		
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

निर्धारितीकीओरसे /Assessee by	Shri Subhash Chander Jindal, Adv.
राजस्वकीओरसे /Revenue by	Shri Om Prakash, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	31.10.2022
उद्घोषणाकीतारीख/Pronouncement on	23.01.2023

आदेश /O R D E R

This appeal is filed by the assessee against the order of Id. Commissioner of Income Tax (Appeals)-5, Ludhiana dated 27.08.2019 for AY 2015-16.

2. The only issue in the appeal of the assessee whether the Assessing Officer is justified in making addition for Rs.29,86,510/- in respect of opening cash balance as income of the assessee for the year under consideration i.e. AY 2015-16.

3. Briefly stated the facts of the case are that in the course of assessment proceedings assessee was asked to explain about the opening cash balance of Rs.29,86,510/- appearing in the books of account. The

assessee submitted that this opening cash balance is disclosed in the Income tax return for the AY 2014-15. However, the Assessing Officer seems to have downloaded the Income tax return for the AY 2014-15 and found that there is a zero closing cash balance as on 31.03.2014. Therefore, the Assessing Officer treated the said amount of Rs.29,86,510/- as income of the assessee for the AY 2015-16 and computed the income accordingly.

4. Assessee preferred appeal before the Ld. CIT(A) and the Ld. CIT(A) sustained the addition as the assessee did not reflect the figures of closing cash balance in the return filed for the AY 2014-15.

5. Before me the Ld. Counsel for the assessee submits that the Accountant who filed the return of income of the assessee inadvertently did not fill up the columns of financial particulars of the business in the return of income which was filed electronically. These particulars are sundry debtors, creditors, stock-in-trade and cash balance. None of these particulars were filled up in respective columns in the return by the Accountant inadvertently. An affidavit by Shri Sajjan Kumar Aggarwal from whose office the return of the assessee was filed was furnished deposing that the financial particulars of the business in the return were left blank inadvertently and it is a *bonafide* mistake.

6. The Ld. Counsel further submits that in any case in the course of assessment proceedings the assessee has filed Income tax return,

computation of balance sheet for the AY 2014-15 on 05.12.2017, wherein in the computation of income the cash in hand as on 31.03.2014 was clearly mentioned and it is part of the records. The Ld. Counsel further submits that this amount of opening cash balance is the closing balance as on 31.03.2014 and this amount cannot be treated as income of the assessee for the AY 2015-16. Reliance was placed on the decision of the Rajasthan High Court in the case of CIT vs. Parmeshwar Bohra [267 ITR 698], CIT vs. Usha Stud Agricultural Farms Ltd. [301 ITR 384] (Del.), DCIT vs. Shri Pawan Aggarwal in ITA No. 374/Lkw/2013 dated 23.01.2015.

7. The Ld. Counsel further placing reliance on the decision of the Punjab & Haryana High Court in the case of CIT vs. Deepak Kumar in ITA No. 191/2009 dated 08.03.2010 submits that assessee cannot be put into trouble and suffering on account of mistake committed by the Counsel.

8. Ld. DR strongly placed reliance on the orders of the authorities below.

9. Heard rival submissions, perused the orders of the authorities below and the decisions relied on.

10. From the letter dated 05.12.2017 which is placed at page 28 of the Paper Book it is seen that in the course of assessment proceedings the assessee has furnished Income tax return, computation and balance sheet for the AY 2014-15 before the Assessing Officer. From the computation of income for AY 2014-15 and the balance sheet as on 31.03.2014 which

is placed at page 37 of the Paper Book reflects that the assessee has shown closing cash balance in hand at Rs.29,86,510/-. These evidences go to show that the assessee has reflected cash balance of Rs.29,86,510/- for the AY 2014-15 and this was carried forward as opening cash balance for the AY 2015-16. The only reason for not accepting the cash balance as it can be seen from the assessment order is that the assessee has not reflected in the Income tax return filed electronically for the AY 2014-15. The reason for not reflecting the financials, not filling up the financial data in the return is a mistake committed by the Accountant who has filed the return of income of the assessee. Otherwise, the details are filed in the form of computation, balance sheet along with the return of income for the AY 2014-15. The computation of income, balance sheet was also furnished before the Assessing Officer in the course of assessment proceedings for the AY 2015-16 to prove that there is a closing cash balance as on 31.03.2014 and the same was the opening balance for the AY 2015-16, i.e. as on 01.04.2014. Simply because the columns in the return have not been filled up inadvertently the closing balance appearing in the balance sheet and which was carried forward for the AY 2015-16 as opening cash balance cannot be treated as unexplained income of the assessee for the AY 2015-16.

11. The Hon'ble Punjab & Haryana High Court in the case of CIT vs. V.P. Singh held that when there is no dispute that the assessee has

submitted the balance sheet before the Assessing Officer and in the balance sheet the closing balance or cash in hand was disclosed the opening balance cannot be regarded to be undisclosed income. This decision is squarely applies to the facts of this case. In the case of the assessee also the Assessing Officer did not dispute the balance sheet and the computation filed by the assessee, wherein the closing cash balance of Rs.29,86,510/- was reflected by the assessee. The only grievance of the Assessing Officer for not accepting the cash balance is that the Income tax return for the AY 2014-15 the assessee has not filled up the financial data. This cannot be the reason for treating opening cash balance as unexplained income of the assessee.

12. In the circumstances, I direct the Assessing Officer to delete the addition made addition of Rs.29,86,510/- on account of opening capital. Grounds raised by the assessee are allowed.

13. In the result, appeal by the assessee is allowed.

Order pronounced in the open court on 23/01/2023

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Dated: 23.01.2023

**Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard
file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi