

**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.160/Asr/2022
Assessment Year: 2009-10**

Suheel Abbas Mirza, Qamarwari Near Shah Cinema Srinagar (J & K) [PAN: AWEPM2615F] (Appellant)	Vs.	ITO, Ward-3(3), Srinagar. (Respondent)
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Appellant by	Sh. Bashir Ahmad Lone, CA.
Respondent by	Ms. Priyanka Singla, Sr. DR

Date of Hearing	27.12.2022
Date of Pronouncement	31.01.2023

ORDER

Per:Anikesh Banerjee, JM:

The instant appeal of the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeal), NFAC, Delhi,[in brevity the ‘CIT (A)’] bearing appeal DIN & Order No. ITBA/NFAC/S/250/2022-23/1043498336(1),date

of order 21.06.2022, order passed u/s 250 of the Income Tax Act 1961, [in brevity the Act] for A.Y. 2009-10. The impugned order was emanated from the order of the Id. Income Tax Officer Ward-3(3), Srinagar, (in brevity the AO) order passed u/s 143(3)/147 of the Act date of order 31.12.2016.

2. Brief fact of the case is that the assessee's case was reopened by pursuing notice u/s 148 of the Act. The assessee informed to the Id. AO that ITR was already filed vide acknowledgment no. 61200438 dated 20.09.2009 declaring net income of Rs.11,13,205/- which may be treated as ITR filed in compliance to notice u/s 148 of the Act. The reasons of reopening were that the assessee has made cash payment of Rs.22,41,114/-. As per the assessment order, the Id. AO mentioned that the assessee is maintaining two PAN one is AWEPM2615F and another PAN AOMPM3869D. The information was gathered by the Id. AO that the amount of Rs.22,41,114/- was transacted against the PAN AOMPM3869D. The assessee has only accepted the PAN bearing number AWEPM2615F and has denied to maintain any PAN in his own name bearing number AOMPM3869D. During assessment the total bank transaction related to PAN AOMPM3869D was added back with the total income of the assessee and in the assessment order the Id. AO has mentioned

the PAN AOMPM3869D which was treated as assessee's own PAN number. Aggrieved assessee filed an appeal before the ld. CIT(A). The ld.CIT(A) has passed the order against the PAN No. AWEPM2615F which was claimed as assessee's own PAN. The ld. CIT(A) upheld the order of the ld. AO. Being aggrieved assessee filed an appeal before us by challenging the order of CIT(A).

3. During hearing, the ld. counsel for the assessee has filed written submission and mentioned that he had not in connection with PAN AOMPM3869D. The assessee is maintaining the credit card in Citi Bank and amount of Rs.3,16,500/- was paid from his own ICICI Bank A/c during the year. In this respect, the assessee has submitted the bank statement of ICICI Bank, Kalidasa Road, V.V. Mohalla, 9th Cross Mysore, Karnataka, 570021, copy of the statement is enclosed in **APB from pages 14 to 21.**

3.1 The ld. counsel for the assessee further invited our attention in credit card statement of CITI Bank which has also enclosed in **APB pages 5 to 13.** The assessee is a salaried employee as proof the Form No. 16 is enclosed in **APB pages 1 to 2.** The ld. Counsel for assessee claimed that the assessee has sufficient salaried income to meet the credit card expenses amount of Rs.3,16,500/-.

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

5. We heard the rival submission and perused the documents available in the record. In assessment order, the Id. AO had recognised two PAN numbers. One of which is denied by the assessee himself. The order was passed on basis of the PAN bearing number AOMPM3869D. But the Id. AO had lack of process of verification & fully relied on internal data base. No evidence was found related credit card payment amount of Rs.22,41,114/-. The verification of credit authority was also negated in assessment order. The Id. AO was not able to bring any cogent material about the twin PAN number which was claimed to be maintained by the assessee. The assessee had filed return & submitted the Form No. 16 and also the appeal order or related to the PAN AWEPM2615F which was claimed as assessee's own PAN Number. In our considered view, we find that there is a lack of inquiry on the part of the AO to bring the proper fact in the order. The data base was not correctly indicated about the maintaining the twin PAN by the assessee, if any. We accept the documents submitted by the assessee through his counsel. We remand back the matter to the Id. AO to unearth the proper fact related to two PAN

numbers and proof of payment of credit card account amount of Rs. 22,41,114/-
.Needless to say, that the AO shall provide proper and adequate opportunity of being heard to the assessee in set aside proceedings. The evidence/explanations submitted by assessee in its defence shall be admitted by the Id. AO and adjudicated by the Id. AO on merits in accordance with law. We order accordingly.

6. In the result, the appeal of the assessee bearing **ITA No. 160/Asr/2022** is allowed for statistical purposes.

Order pronounced in the open court on 31.01.2023

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