

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

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER

ITA No. 2820/Del/2022
Assessment Year: 2019-20

Satya Prakash Goyal, B-54 C, Shish Ram Park, Uttam Nagar, Mohan Garden, Delhi	Vs.	DCIT, Central Circle 31, Delhi
PAN :AOJPP5192F		
(Appellant)		(Respondent)

Appellant by	Shri Akshat Jain, CA
Respondent by	Shri Anil Kumar Sharma, Sr. DR

Date of hearing	07.02.2023
Date of pronouncement	17.02.2023

ORDER

This is an appeal by the assessee against order dated 03.10.2022 of learned Commissioner of Income-Tax (Appeals)-30, New Delhi for the assessment year 2019-20.

2. The dispute in the present appeal is confined to addition of an amount of Rs.20,40,000 under Section 69A read with section 115BBE of the Income-Tax Act,1961.

3. Briefly the facts are, the assessee is a resident individual. For assessment year under dispute, assessee filed his return of income on 27.09.2019 declaring income of Rs.18,60,000. A search and seizure operation under Section 132 of the Income-Tax Act,1961 was conducted in the business premises of M/s. Fakir Chand Lockers (P) Ltd. on 31.10.2018.

4. In course of search operation, 300 lockers in names of different persons were found. One of the lockers, being Locker No.250, was found allotted in the name of the assessee. Based on a search warrant issued in the name of the assessee in respect of locker No.250, the locker was opened and cash amounting to Rs.20,40,000 was found inside the locker. In a statement recorded under Section 132(4) of the Act on 13.12.2018 in course of search operation, when the assessee was called upon to explain the source of such cash deposit, the assessee submitted that out of the total cash amount of Rs.20,40,000, an amount of Rs.18,10,000 was out of income earned from sale of jute

bags (bardana) and the balance amount of Rs.2,30,000 was out of past savings. In course of assessment proceedings, the Assessing Officer again called upon the assessee to explain the source of cash found in the locker. In response, the assessee repeated the same explanation as stated in a statement recorded under Section 132(4) of the Act. The Assessing Officer, however, was not satisfied with the explanation of the assessee. He observed that assessee never filed any return of income. Whereas, in pursuance to notices issued under Section 153A of the Act, the assessee filed returns for past assessment years showing negligible income. However, for the assessment year under dispute, the assessee offered very high income only for explaining the source of cash found in the locker.

5. Disbelieving the claim of the assessee, the Assessing Officer proceeded to complete the assessment by treating the cash of Rs.20,40,000 found in the locker as unexplained money under Section 69A of the Act and added to the income of the assessee. The addition made was confirmed by learned Commissioner (Appeals).

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

7. It is evident, in course of search and seizure operation, cash amounting to Rs.20,40,000 was found in the locker standing in the name of the assessee. In a statement recorded under Section 132(4) of the Act, in course of search operation, the assessee had explained the source of cash found to be out of the sale of jute bags. The same explanation was offered by the assessee in course of assessment proceedings. Further, to substantiate his claim, the assessee furnished a list of persons to whom the assessee had sold the jute bags. This fact has been accepted by the Assessing Officer in the assessment order. However, as it appears, without conducting any further inquiry to ascertain the veracity of assessee's claim, the Assessing Officer rejected the explanation furnished by the assessee and proceeded to treat the cash found as unexplained money under Section 69A of the Act. This, in my view, is improper. When the assessee had made certain statement explaining the source of cash found in the locker and to substantiate his claim has furnished some information relating to the persons to whom the sales were effected, the minimum the Assessing Officer could have done is to conduct inquiry with the concerned person, who, as per assessee's claim, purchased jute bags.

In case, the details furnished by the assessee were not enough, the Assessing Officer could have called for further details. Without conducting any inquiry with reference to assessee's claim, the Assessing Officer should not have rejected the explanation. At the same time, on a query made to learned counsel appearing for the assessee regarding the list of persons to whom the jute bags were sold, he furnished a list supposed to have been submitted before the Assessing Officer, wherein, only names of certain persons and amounts received in cash were mentioned without mentioning further details like their addresses and locations etc. Thus, I am of the view, the assessee has also failed to furnish complete details to substantiate his claim regarding income received from sale of jute bags. Therefore, in my view, there are lapses from both sides.

8. In view of the aforesaid, I consider it appropriate to restore the issue to the Assessing Officer for fresh adjudication after conducting necessary inquiry with regard to assessee's claim of sale of jute bags. The assessee on its part is at liberty to furnish fresh evidences to substantiate his claim.

9. Needless to mention, the assessee must be provided reasonable opportunity of being heard before deciding the issue. Grounds are allowed for statistical purposes.

10. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the open court on 17th February, 2023.

**Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER**

Dated: 17th February, 2023.

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):	07.02.2023
2.	Date on which the draft of order is placed before the Dictating Member:	08.02.2023
3.	Date on which the draft of order is placed before the other Member:	10.02.2023
4.	Date on which the approved draft of order comes to the Sr. PS/PS:	14.02.2023
5.	Date of which the fair order is placed before the Dictating Member for pronouncement:	14 .02.2023
6.	Date on which the final order received after having been singed/pronounced by the Members:	17.02.2023
7.	Date on which the final order is uploaded on the website of ITAT:	17.02.2023
8.	Date on which the file goes to the Bench Clerk	17.02.2023
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:	