

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 1688/DEL/2021
Assessment Year: 2017-18

Kishan Singh & Associates, D-II/263, Madangir, Ambedkar Nagar, New Delhi-110062 PAN: AAGFK8991A	<u>Vs</u>	Income-tax Officer, Ward-28(7), New Delhi
APPELLANT		RESPONDENT
Assessee represented by	Shri Vijay Kumar Jindal, CA	
Department represented by	Shri Om Parkash, Sr. DR	
Date of hearing	24.05.2023	
Date of pronouncement	30.05.2023	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 30.09.2021, pertaining to the assessment year 2017-18. The assessee has raised following grounds of appeal:

“The learned assessing officer as well as CIT(A) have erred in making the addition of Rs. 10,00,000/- on the following account:-

The SBN of Rs. 10,00,000/- was deposited on 18.11.2016 in SBI Account No. 10674704347 in the name of M/s Kishan Singh & Associates, a proprietorship firm of Ms. Arti Chauhan, PAN -AFGPC1790Q.

However, due to some inadvertent mistake, the PAN - AAGFK8991A of partnership firm M/s Kishan Singh & Associates has been mentioned in the bank account.

2. The SBN of Rs. 10,00,000/- deposited in account number 10674704347 were withdrawn from the same bank on 12.09.2016 amounting to Rs. 8,00,000/- and on 16.08.2016 amounting to Rs. 8,00,000/-.

3. M/s Kishan Singh & Associates, proprietorship firm has duly declared this SBN deposit of Rs. 10,00,000/- in the Income Tax Return of its proprietor Ms. Arti Chauhan, PAN -AFGPC1790Q.

4. Kishan Singh & Associates was originally a proprietorship firm of Ms. Arti Chauhan, PAN -AFGPC1790Q. To expand the business, a partnership firm was i formed with same name. But this partnership firm was dissolved on 31.03.2003. But Ms. Arti Chauhan PAN AFGPC1790Q had been carrying on the business in the name of Kishan Singh & Associates as proprietorship concern & filing her Income Tax return regularly.

5. The contract amounts received in SBI Account No. 10674704347 have been duly declared while filing income tax return of the proprietorship firm M/s Kishan Singh & Associates.”

2. Facts of the case, in brief, are that assessee is a partnership firm. As per e-filing database the AO noticed that for A.Y. 2017-18 the assessee had not filed its return of income and that during demonetization period the assessee had cash deposits of Rs. 10,00,000/- in its bank account no. 10674704347 with State Bank of India, Greater Kailash-I, New Delhi. The AO show caused the assessee to explain the cash deposits. In response, it was submitted by the assessee that the partnership firm had already been dissolved on 31.03.2003 and necessary application was made to the bank to change the PAN in the bank account. Rs. 10,00,000/- deposited on 18.11.2016 in firm's account had been declared in the ITR of proprietorship concern having PAN AFGPC1790Q and the assessee proprietorship firm has submitted its return taking into consideration all the

receipts flowing from both the PANs. Rejecting the contention of the assessee that the cash deposits were made out of earlier withdrawal from the same bank account, the AO added cash deposits of Rs. 10,00,000/- to the income of the assessee u/s 69A read with Section 115BBE of the Income-tax act, 1961 (the "Act"). Aggrieved against it the assessee preferred appeal before the learned CIT(Appeals) , who also affirmed the order of the learned AO. Aggrieved against it the assessee is in appeal before this Tribunal.

3. Apropos to the grounds of appeal, learned counsel for the assessee vehemently argued that the authorities below grossly failed to verify true and correct facts. He contended that the assessee firm had already been dissolved and contended that Ms. Arti Chauhan has been holding the bank account in which the impugned transaction had taken place. He contended that Ms. Arti Chauhan had duly disclosed the bank account to the Revenue authorities in her 'Income-tax Return'. He, therefore, contended that impugned assessment order is ex facie illegal. He contended that Ms. Arti Chauhan is carrying out in the name and style of Kishan Singh & Associates.

4. On the other hand, learned DR opposed the submissions and supported the impugned order.

5. I have heard rival contentions of the parties and perused the material available on records. It is pointed out by the learned counsel for the assessee that the assessee is a partnership firm, that has already stood dissolved. Hence, the impugned assessment order has been framed against the non-existent entity. I find that the learned CIT(Appeals) did not accept the claim of assessee regarding dissolution of firm on the ground that PAN No. AAGFK8991A was allotted subsequently, after elapse of 17 months. However, the case of assessee is that bank account in question is being held and operated by Ms. Aarti Chauhan in her

individual capacity. Learned DR could not controvert the fact that Ms. Aarti Chauhan has duly owned up the bank account. In my considered view this vital fact escaped the attention of learned CIT(Appeals). I, therefore, looking to the totality of facts hereby direct the AO to delete the impugned addition. However, Revenue would be at liberty to assessee the income at right hand, if so permitted by law. Appeal of assessee is allowed in the terms indicated hereinabove.

Order pronounced in open court on 30th May, 2023.

**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**