

आयकर अपीलीय अधिकरण
कोलकाता 'एसएमसी' पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH, KOLKATA**

श्री राजेश कुमार, लेखा सदस्य

एवं

श्री संजय शर्मा, न्यायिक सदस्य

के समक्ष

Before

SRI RAJESH KUMAR, ACCOUNTANT MEMBER

&

SONJOY SARMA, JUDICIAL MEMBER

I.T.A. No.: 764/KOL/2022

Assessment Year: 2008-09

Manish Badalia.....Appellant
[PAN: AKLPB 6810 A]

Vs.

ITO, Ward-2(2), Hooghly.....Respondent

Appearances by:

Sh. Miraj D. Shah, A/R, appeared on behalf of the Assessee.

Sh. P.P. Barman, Addl. CIT, Sr. DR, appeared on behalf of the Revenue.

Date of concluding the hearing : July 27th, 2023

Date of pronouncing the order : August 22nd, 2023

ORDER

Per Rajesh Kumar, Accountant Member:

This is an appeal preferred by the assessee against the order of Learned Commissioner of Income-tax (Appeals)- XXXVI, Kolkata [hereinafter referred to Ld. 'CIT(A)'] dated 28.08.2014 for the Assessment Year (in short 'AY') 2008-09.

2. The issue raised in ground nos. 1 & 2 are against the confirmation of Rs. 13,63,510/- by Ld. CIT(A) as added by The Assessing Officer (in short Ld. 'AO') on the basis of cash peak credit.

3. The facts in brief are that the Ld. AO during the course of assessment proceedings noticed that the assessee has deposited cash in his bank account and accordingly, a show cause notice was issued which was never replied by the assessee. Ld. AO concluded that the assessee has not disclosed the bank account in the return of income as well as in the balance sheet prepared by the assessee and consequently added the peak balance of cash deposit of Rs. 13,63,510/- to the income of the assessee.

4. In the appellate proceedings also Ld. CIT(A) simply affirmed the order of Ld. Assessing Officer (in short ld. 'AO').

5. After hearing rival contentions and perusing the material on record, we find that the assessee has made purchases of coal from Eastern Coal Fields for which the assessee has received cash advances from various customers. We observe that the money received by the assessee from the customers has been utilized for purchase of coal from the Coal Junction. The assessee has furnished the details of payments made to Metal Junction Services Ltd. and Eastern Coal Fields Ltd. at page no. 14 & 15 of the paper book which is extracted below for the sake of ready reference:

3/17/23, 12:48 PM

declaration required for dd made in fy 2007-2009 - mbadalia@gmail.com - Gmail

14

Gmail

in:sent

X

Compose

Inbox 1,746

Snoozed

Important

Sent

Drafts 79

Spam 301

Categories

More

Labels

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Client

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Nitesh More

Personal 163

Angel Broking

Reliance mobile

Tax

More



manish badalia

please find the attachment and provide me with the declaration as soon as possible.



Gopa Biswas <gopa.biswas@idbi.co.in>
 to me, lbk0000060

Dear Sir,

Please find the details:

TRAN_DATE	CHEQUE / INSTRUMENT_NUMBER	PARTICULARS	DR TRAN_AMOUNT	Beneficiary Name
20-08-2007	589657	CALCUTTA :- ISSUE OF DD	40000	MJUNCTION SERVICES LIMITED A/C MANISH BADALIA
21-09-2007	589656	CALCUTTA :- ISSUE OF DD	20000	MJUNCTION SERVICES LIMITED-A/C MANISH BADALIA***
29-02-2008		Issue of DD	181980	EASTERN COALFIELDS LTD A/C MANISH BADALIA
20-03-2008		Issue of DD	100000	MJUNCTION SERVICES LIMITED A/C MANISH BADALIA
02-04-2008	589673	CALCUTTA :- ISSUE OF DD	200000	EASTERN COALFIELDS LTD A/C MANISH BADALIA
02-04-2008	657038	CALCUTTA :- ISSUE OF DD	200000	EASTERN COALFIELDS LTD A/C MANISH BADALIA
02-04-2008	657037	CALCUTTA :- ISSUE OF DD	200000	EASTERN COALFIELDS LTD A/C MANISH BADALIA
02-04-2008	657036	CALCUTTA :- ISSUE OF DD	211000	EASTERN COALFIELDS LTD A/C MANISH BADALIA
02-04-2008	589672	CALCUTTA :- ISSUE OF DD	200000	EASTERN COALFIELDS LTD A/C MANISH BADALIA

Thanks & Regards

https://mail.google.com/mail/u/2/#sent/KtblLzGPqGxkTFbjyIbDVMJCCGG9B

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Name, address and PAN of parties from whom advance received for coal purchase

Sr	Name	PAN	Address	Amount
1	Dream Reality and Consultant	AAMFD0949D	26, Yeni Sarani, Lilabati Bhavan, South 24 Parganas - 104	281980
2	DRH Construction	AAJFD2964M	95, Santosh Roy Road, Barisha , Kolkata - 700008	211000
3	Astapda Bera	BCUPB0699B	Jote Shibrampur, Ketapola, Beladanga , Kolkata - 700141	200000
4	Vijay Kumar Singh	BECPS9025N	Prashanta Roy Road, Purba Barisha Kolkata - 700008	200000
5	Pranab Mandal	BOAPM5677E	Kailash Ghosh Road, Barisha Mondalpara, Kolkata - 700008	200000
6	Mukhta Singha	DZOPS3435K	Ganipur Hiramistri School Road, Maheshatala , Kolkata - 700141	200000
7	Jayshree Jain	ADSPB4230C	26, Janata Sarani, Hindmotor, Debaipukur, West Bengal 712233	232000
				1524980

6. We observe from the above that the assessee has received advances for coal purchases from seven parties and has also given their PANs along with addresses in the statement extracted above. We further note that during the year the assessee has received Rs. 15,24,980/- from customers towards coal purchase. Considering these documents and also other various evidences filed by the assessee before us, we are of the view that the observations of the authorities below are not correct and cannot be sustained. Accordingly, we set aside the order of Ld. CIT(A) and delete the addition made by Ld. AO. The ground no. 1& 2 are allowed.

7. The issue raised in ground no. 3 is against the confirmation of addition of Rs. 95,832/- by Ld. CIT(A) as made by Ld. AO in respect of unexplained other credits.

8. Ld. AO noted during the course of assessment proceedings that some credits were appearing in the bank account aggregating to Rs. 95,832/- which were not explained by the assessee and accordingly added the same to the income of the assessee. In the appellate proceedings, Ld. CIT(A) affirmed the order of Ld. AO on this issue.

9. After hearing rival contentions and perusing the material on records, we find that the assessee has sufficient source to make the purchases with the amount in the bank account of the assessee as the assessee is in the business of trading in coal. We note that during the year the assessee has received Rs. 15,24,980/- from seven parties aggregating against which the purchases were made to the tune of Rs. 13,52,980/- and sufficient cash is available to explain the other credits. We, accordingly, set aside the order of Ld. CIT(A) and direct Ld. AO to delete the addition.

10. In the result, the appeal filed by the assessee is allowed.

Kolkata, the 22nd August, 2023.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rajesh Kumar]
Accountant Member

Dated: 22.08.2023

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. Manish Badalia, 90, Phears Lane, 4th Floor, Room No. 404,
Near Central Metro, Kolkata-700 012.**
- 2. ITO, Ward-2(2), Hooghly.**
3. CIT(A)-XXXVI, Kolkata.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata