

IN THE INCOME TAX APPELLATE TRIBUNAL
CIRCUIT BENCH : VARANASI

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER
AND
SHRI AMIT SHUKLA, JUDICIAL MEMBER

ITA No.24/VNS/2018
Assessment Year: 2008-09

Dhruv Narain Singh,
Bela, Pipraich,
Gorakhpur.

Vs Income-tax Officer,
Ward – 1(3),
Gorakhpur.

PAN: AOXP7241P

(Appellant)

(Respondent)

Assessee by	:	Shri Shubham Singh, CA
Revenue by	:	Shri A.K. Singh, Sr. DR
Date of Hearing	:	25.09.2023
Date of Pronouncement	:	26.09.2023

ORDER

PER B.R. BASKARAN, AM:

The assessee has filed this appeal challenging the order dated 18-12-2017 passed by Ld CIT(A), Gorakhpur and it relates to the assessment year 2008-09.

2. The appeal is delayed by 117 days. The assessee has filed a petition requesting the bench to condone the delay. It is stated that the appeal papers could not be prepared in time due to inadvertence at the end of his tax consultants. Accordingly, we are of the view that there was reasonable cause for the delay in filing the present appeal. Accordingly, we condone the delay and admit the appeal for hearing.

3. The assessee is aggrieved by the decision of Ld CIT(A) rendered on the following issues:-

- (a) Adhoc disallowance made from expenses claimed on hiring of Generator.
- (b) Addition of Rs.1,14,100/- towards unexplained cash deposits made in the bank account of the assessee.
- (c) Addition of Rs.1,12,166/- towards deposits received by way of transfers.
- (d) Addition towards marriage expenses of the daughter of the assessee.

4. We heard the parties and perused the record. The first issue relates to the adhoc disallowance made out of expenses claimed on hiring of Generator. The assessee has given on hire a Generator at a monthly rent of Rs.7000/-. Accordingly, the assessee declared annual rental receipts on hiring of generator at Rs.84,000/- and claimed expenses to the tune of Rs.55,950/- against the said income. The AO noticed that the repair expenses incurred to the tune of Rs.1400/- has been reimbursed by the hirer. Accordingly, the AO took the view that the entire expenses claimed by the assessee cannot be allowed. Accordingly, he disallowed a sum of Rs.40,110/-. The Ld CIT(A), however, restricted the addition to Rs.20,000/-.

4.1 We notice that the AO has not cited any reason to disallow a sum of Rs.40,110/-. Only incident noticed by the AO is that the hirer has reimbursed repair expenses of Rs.1400/-. It is also not the case of the AO that the expenses claimed by the assessee towards repairs amounting to Rs.5350/- included the above said sum of Rs.1400/-, which would have triggered the disallowance of Rs.1400/- only. In the absence of any evidence to show that the assessee has claimed bogus expenses, we are of the view that the AO could not have disallowed the sum of Rs.40,110/-. Accordingly, we are of the view that the Ld CIT(A) was not justified in restricting the disallowance to Rs.20,000/-. Accordingly, we set aside the order

passed by Ld CIT(A) on this issue and direct the AO to delete the entire disallowance of Rs.40,110/-.

5. The next issue urged by the assessee relates to the addition of Rs.1,14,100/- towards cash deposits made in the bank account. The assessee explained the sources as past savings and earlier withdrawals. Since no document was furnished in support of the above said claim, the AO made the addition of the above said amount and the Ld CIT(A) also confirmed the same.

6. It is not in dispute that the assessee has been earning income in the past also. The AO himself has recorded that the assessee has been renting out generator set and also carrying on hardware business. It is submitted that the impugned bank account is a joint bank account jointly held by the assessee along with his wife Smt Ishrawati Devi. It was submitted that the assessee is also having agricultural income. Since the assessee did not maintain books of account, we notice that the tax authorities have rejected the explanation of the assessee. The assessee has furnished copy of bank account and on a perusal of the same, we notice that there were deposits as well as withdrawals. Hence the possibility of depositing the amount, which was withdrawn earlier, could not be ruled out. Accordingly, we are of the view that the explanation of the assessee cannot be discounted altogether. Accordingly, we are of the view that a sum of Rs.80,000/- may be given credit towards past savings. Accordingly, we confirm the addition to the extent of Rs.24,100/- and direct the AO to delete the balance amount of addition. The order passed by Ld CIT(A) on this issue would stand modified accordingly.

7. The next issue contested by the assessee relates to “transfer deposits” aggregating to Rs.1,12,166/- found in the bank account of the assessee. The assessee explained the same to be maturity proceeds of Fixed Deposits made with the bank. Since the assessee did not furnish any proof for the above said claim, the

AO made the addition. Before Ld CIT(A), the assessee furnished a certificate to substantiate his claim. However, the Ld CIT(A) held that the bank certificate is not sufficient. Accordingly, he confirmed the addition.

7.1 We notice that the impugned deposits are 'transfer entries', meaning thereby they are not cash deposits. It is the submission of the assessee that they represent maturity proceeds of deposits made with bank. We notice that the assessee has also submitted a bank certificate wherein the bank has certified that the transfer entries relate to RD & STD made by the assessee. Accordingly, we are of the view that the explanation of the assessee should have been accepted by Ld CIT(A). However, it is not clear as to whether the assessee has offered interest income. Further, the assessee is not required to explain the sources for this year, if the deposits had been made in the earlier year. Here, it is not clear as to whether these deposits were made in the current year or in the earlier year. Accordingly, in the absence of relevant details, a portion of the deposits is required to be assessed as income of the assessee towards interest income and fresh deposits made during the year. Accordingly, we estimate the same at Rs.30,000/- and direct the AO to assess the same as income of the assessee. The balance amount of addition is directed to be deleted. The order of Ld CIT(A) passed on this issue would stand modified accordingly.

8. The last issue relates to the unexplained marriage expenses incurred by the assessee on the marriage of his daughter. The AO had made addition of Rs.4,36,000/- and the Ld CIT(A) has reduced the same to Rs.1.00 lakh. In our view, the Ld CIT(A) has given considerable relief on this issue. Accordingly, we do not find any reason to interfere with his decision rendered on this issue. Accordingly, we confirm the same.

9. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 26.09.2023.

Sd/-

(AMIT SHUKLA)
JUDICIAL MEMBER

Sd/-

(B.R. BASKARAN)
ACCOUNTANT MEMBER

Dated: 26th September, 2023

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1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar