

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "G" BENCH: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &
SHRI M.BALAGANESH, ACCOUNTANT MEMBER**

ITA No.138/Del/2017

[Assessment Year : 2007-08]

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| Ved Prakash thru Legal Heir Narender, H.No.170, Dundahera, Behind Badi Chaupal, Gurgaon-122016. PAN-AKVPP7366D | vs | ITO, Ward-4(4), Gurgaon. |
| APPELLANT | | RESPONDENT |
| Appellant by | None | |
| Respondent by | Shri Subhra Jyoti Chakraborty, CIT DR | |
| Date of Hearing | 19.10.2023 | |
| Date of Pronouncement | 31.10.2023 | |

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee is directed against the order passed by Ld.CIT(A)-1, Gurgaon dated 10.11.2016 for the assessment year 2007-08.

2. The assessee has raised following grounds of appeal:-

1. *"That on the facts and in the circumstances of case and in law, the Ld CIT (A) erred in creating illegal demand, in strangulation of principles of natural justice and ignoring relevant material available on record returning perverse findings.*
2. *That on the facts and in the circumstances of case and in law, the Ld CIT (A) erred in affirming the Cash Deposit additions made by the AO and documents & information submitted during the appellate proceedings.*
3. *That on the facts and in the circumstances of case and in law, the Ld CIT (A) erred in making addition on account of unexplained Cash*

Credits in Bank account @ Rs. 5,13,000/- whereas proper explanation with documentary evidences were produced during the course of Appeal proceedings while filing application under rule 46A for additional evidences.

4. *That on the facts and in the circumstances of case and in law, the Ld CIT (A) erred in affirming the addition amounting @ Rs 5,13,000/- on account of Cash Deposit with Bank. It was duly submitted with documentary evidence during the course of Appeal proceedings that Cash Deposit is out of A/c. withdrawal.*
5. *That The Ld. CIT (A) erred in relying upon report of AO dated 27.05.2016.*
6. *That the appellant craves leave to add, to amend, modify, rescind, supplement or alter any of the grounds stated herein above, either before or at the time of hearing of this appeal.”*

3. Facts giving rise to the present appeal are that the assessee filed his return of income, declaring total income at INR 6,81,645/- on 16.04.2008. The case was re-opened on the basis that the assessee had deposited cash amounting to INR 5.13 lacs in his bank account. He also had received an amount of INR 39 lacs on 03.07.2006 from M/s. Mansi Metal, INR 51 lacs on 05.12.2006, Rs.50 lacs on 09.12.2006 and INR 3 lacs on 03.03.2007. To verify the source of such deposit, the Assessing Officer (“AO”). The case of the assessee was re-opened u/s 147 of the Income Tax Act, 1961 (“the Act”). Thereafter, AO after giving opportunity of being heard to the assessee, passed the impugned assessment order u/s 144/147 of the Act dated 27.03.2015 wherein he made addition of INR 5,13,400/- in respect of cash deposited in his bank account, INR 3,40,000/- regarding credit entry and addition of capital gain of INR 64,35,140/-. Thus, he assessed the income of the assessee at INR 79,70,185/-.

4. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, partly allowed the appeal of the assessee and sustained the addition at INR 5,13,400/-. Out of two, other addition of INR 3,40,000/- was deleted. Regarding capital gain, Ld.CIT(A) directed the AO to allow deduction u/s 54B of the Income Tax Act, 1961 (“the Act”) and re-compute the same.

5. Aggrieved against the order of Ld.CIT(A), the assessee preferred appeal before this Tribunal.

6. At the time of hearing, no one present on behalf of the assessee. It is seen from the records that despite various opportunities were given to the assessee, there was no response on behalf of the assessee. Therefore, the appeal is taken up for hearing in the absence of the assessee and being decided upon material available on record.

7. On the other hand, Ld. CIT DR opposed these submissions and supported the order of the AO and finding of Ld.CIT(A). He supported the assessment order.

8. We have heard Ld. CIT DR for the Revenue and perused the material available on record and gone through the orders of the authorities below. We find that Ld.CIT(A) has given a finding on facts by observing s under:-

I. Addition of Rs. 5,13,000/-

“This addition has been made by the AO on account of cash deposits in the bank account. The appellant has contended that all the cash deposits were made out of the opening cash in hand available with the appellant. As seen from the AO's report no documentary evidence regarding the

availability of cash in hand at the time of deposits of the same in the bank account has been produced by the appellant. The claim of the appellant that the cash was deposited out of cash available from the cash in hand is therefore a mere self serving statement without any documentary evidence. The addition made by the AO is confirmed.”

9. This finding of Ld.CIT(A) is not controverted by the assessee by placing any contrary material on record. Therefore, in the absence of contrary material, we do not see any infirmity in the order of Ld.CIT(A). Moreover, it was incumbent upon the assessee to prove the source of cash deposits in his bank account. In case the assessee fails to do so, the AO would be justified in treating it as income from undisclosed sources. Thus, grounds raised by the assessee are dismissed.

9. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 31st October, 2023.

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

** Amit Kumar **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI