

| आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, KOLKATA

BEFORE SHRI RAJPAL YADAV, HON'BLE VICE PRESIDENT
&
DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 709 & 710 /Kol/2022
Assessment Year: 2011-12 & 2012-13

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| Radhe Mohan Harsh 42, Shri Hariram Goenka Street West Bengal - 700007 [PAN: ACRPH3905Q] | Vs | Income Tax Officer, Ward - 45(1), Kolkata |
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| अपीलार्थी/ (Appellant) | | प्रत्यर्थी/ (Respondent) |
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|---------------|----------------------------------|
| Assessee by : | None |
| Revenue by : | Shri P.P. Barman, Addl. CIT, D/R |

सुनवाई की तारीख/Date of Hearing : 23/01/2024
घोषणा की तारीख /Date of Pronouncement: 07/02/2024

आदेश/O R D E R

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The present appeals are directed at the instance of the assessee against the separate but identical orders of the National Faceless Appeal Centre, Delhi, [hereinafter the "Id. CIT(A)"] dt. 29/09/2022, passed u/s 250 of the Income Tax Act, 1961 ("the Act") for the Assessment Year 2011-12 and 2012-13.

2. The registry has informed that both these appeals are time barred by 11 days and petition for condonation of delay has been filed and we find that the delay was on account of medical exigency faced by the Authorised Representative of the assessee. The same is a reasonable cause in our opinion and hence the delay is condoned and we admit both these details for hearing.

3. The assessee through its ld. A/R has been taking dates on various occasions in the past and recently, the ld. A/R has withdrawn his power stating that the assessee is not co-operating and not furnished his details. Finally notice was issued for hearing to the assessee through RPAD scheduling the hearing for today but again, none appeared. It thus seems that the assessee is not interested to pursue its appeals. Accordingly, we proceed to adjudicate the appeals on merits after hearing the ld. D/R and perusing the material available on record.

4. Perusal of the grounds of appeal indicates that the assessee is aggrieved with the addition of Rs.55,04,140/- and Rs.58,50,390/- for Assessment Year 2011-12 & 2012-13 respectively made by the ld. Assessing Officer in respect of peak balance of cash deposited in the bank account. Both the additions stand confirmed by the ld. CIT(A) after carefully taking into consideration, the facts of the case.

5. Now, the assessee is in appeal before this Tribunal.

6. The ld. D/R vehemently argued supporting the order of the ld. CIT(A).

7. We have heard ld. D/R and perused the material placed before us. We notice that the assessee has not filed any return of income for Assessment Year 2011-12 and 2012-13 based on the information about the huge cash transactions in the bank account maintained with Oriental Bank of Commerce, Bikaner, Ganga Shahr Road, A/c. No. 08111131001773. The ld. Assessing Officer issued notice u/s 148 of the Act after obtaining prior approval of JCIT, Range -43, Kolkata and re-

assessment proceedings u/s 147 of the Act was carried out. Since the facts of the case remains the same, we take up the figures for Assessment Year 2011-12. During the course of re-assessment proceedings, wherein in response to the notice u/s 148 of the Act, assessee filed a return of income with profit loss account, balance sheet and disclosed profit of Rs.1,60,989/- on the gross receipt under the head sale of garments for Rs.6,14,950/- and showed net total income of Rs.1,58,290/- after availing deduction u/s 80C of the Act. When the assessee was confronted with the fact that huge cash was deposited in the bank account held with Oriental Bank of Commerce and was asked to explain the source thereof, the assessee submitted that he has opened this bank account for the purpose of DMAT account and share trading but thereafter, has not carried out any transactions and the alleged transaction have not been carried out by him and someone has misused his bank account. However, the Id. Assessing Officer called for the information in the bank account u/s 133(6) of the Act and found that the bank account was opened on 03/06/2010 and closed on 27/07/2012. Know Your Customer (KYC) was enclosed with the letter giving the details of name and address of the introducer and the bank manager who signed the KYC. Based on these facts, the Id. Assessing Officer came to a conclusion that the alleged transaction in the bank account held with Oriental Bank of Commerce relates and belongs to the assessee and after computing the peak balance which was at Rs.55,04,140/- as on 07/03/2011 arising out of the cash deposited in the bank account during the year made the addition of Rs.55,04,140/- and assessed the income at Rs.56,62,430/-.

Similar is the situation for Assessment Year 2012-13 where against the returned income of Rs. 1,66,940/-, after making addition of Rs.58,50,390/- towards peak credit balance as on 02/07/2011, income assessed at Rs.60,17,330/-.

7.1. We further find that before the Id. CIT(A) also, assessee did not file any more details explaining the source of the cash deposited. Though the assessee was having sufficient opportunity to upload its submission on the ITBA but except the details filed before the Assessing Officer, no other information was provided and the uncontroverted fact was that the bank account was opened with the identity, address and PAN card of the assessee and account was opened in the name of M/s. Santosh Agency and the details of the assessee has duly been checked by the bank manager. Thus, there remains no dispute that the transactions carried out in the bank account were of the assessee and since the assessee miserably failed to explain the source of cash deposits in the bank account, the Id. CIT(A) has rightly confirmed the finding of the Assessing Officer making the addition only towards the peak credit balance in such bank account which thus takes into consideration the total cash inflow and outflow. Thus, no infirmity is called for in the finding of the Id. CIT(A), confirming the addition for peak balance of cash deposited into bank account of assessee held with OBC, Bikaner at Rs.58,50,390/- for Assessment Year 2011-12 and Rs. 55,04,150/- for

Assessment Year 2012-13 and the same are upheld. All the grounds of appeal raised by the assessee are dismissed.

8. In the result, both the appeals of the assessee for AY 2011-12 & AY 2012-13 are dismissed.

Order pronounced in the Court on 7th February, 2024 at Kolkata

Sd/-
(RAJPAL YADAV)
VICE PRESIDENT

Sd/-
(DR. MANISH BORAD)
ACCOUNTANT MEMBER

Kolkata, Dated 07/02/2024

SC S/P

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata