

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH
HEARING THROUGH: VIRTUAL MODE
श्री संजय गर्ग, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य
BEFORE: SHRI. SANJAY GARG, JM & SHRI. VIKRAM SINGH YADAV, AM

आयकर अपील सं. / ITA NO. 453/Chd/ 2023
निर्धारण वर्ष / Assessment Year : 2017-18

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| Shri Kalattar Singh, Village Parail, PO Badhouli, Tehsil Naraingarh, Dist: Ambala | बनाम | The ITO Ward-2, Ambala |
| स्थायी लेखा सं. / PAN NO: CRSPS2414M | | |
| अपीलार्थी / Appellant | | प्रत्यर्थी / Respondent |

निर्धारिती की ओर से / Assessee by : Shri Lovnish Gupta, CA
राजस्व की ओर से / Revenue by : Shri Surinder Meena, Sr. D.R

सुनवाई की तारीख / Date of Hearing : 01/04/2024
उदघोषणा की तारीख / Date of Pronouncement : 05/04/2024

आदेश / Order

PER VIKRAM SINGH YADAV, A.M. :

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)/ NFAC, Delhi dt. 24/05/2023 pertaining to Assessment Year 2017-18 wherein the assessee has challenged the sustenance of addition of Rs. 2,11,38,000/- under Section 69C of the Income Tax Act, 1961.

2. In this regard, briefly the facts of the case are that the assessee filed his return of income declaring total income amounting to Rs. 3,43,890/- which was processed under section 143(1) and thereafter the case was selected for limited scrutiny under CASS to verify high value of cash withdrawals during the year under consideration. Subsequently, notice under section 143(2) and 142(1) were issued which remains un-complied with. Thereafter, the AO proceeded and completed the assessment ex-parte under section 144 of the Act basis material available on the record.

2.1 As per the AO, the assessee has made cash withdrawals of Rs. 2,11,38,000/- from his bank account maintained with Axis Bank during the year under consideration. Copy of the bank statement was called for from the Axis Bank in this regard and as the assessee has not furnished the explanation / reasons explain the withdrawal of the amount of Rs. 2,11,38,000/-, the entire amount was treated as unexplained expenditure under section 69C of the Act and brought to tax as per provisions of Section 115BBE of the Act.

3. Being aggrieved, the assessee carried the matter in appeal before the Ld. CIT(A).

4. On behalf of the assessee, it was submitted before the Ld. CIT(A) that the assessee is a Proprietor of M/s Radha Swami Traders, doing business of commission agent - Katcha Artiya. It was submitted that the assessee is a licensed dealer, authorized by the local market committee and acts as an agent of the farmers. It was submitted that the assessee was responsible for farmer's crop display, basic cleaning, and sorting, conducting auction and payment to farmers. It was submitted that the Agriculture Marketing Board, Government of Haryana has issued license of Karcha Artiya to the assessee which allowed him to purchase Wheat and Paddy from the farmers and after cleaning, sorting and packing the same, the produce was sent to warehouses of the Government of Haryana and payments were received from the Government Authorized Agency which were further distributed to the farmers.

4.1 It was submitted that the assessee received commission on the amount of Wheat & Paddy and since he was acting as a Katcha Artiya, he purchased the food grains directly from the farmers on behalf of the Haryana Government and the amount of sales does not form part of his turnover and similarly, no expenditure has been claimed and only commission has been shown in his books as part of gross receipts.

4.2 It was submitted that during the year under consideration, the assessee received commission on Rs. 3,64,984/- on which TDS of Rs. 23,756/- was deducted. It was further submitted that the assessee received a sum of Rs. 1,51,05,241/- from Shahzadpur Co-op Marketing Society as agency of Haryana Government through bank transfer and this amount was further distributed to the farmers from whom wheat and paddy was purchased. It was submitted that in rural areas, most of the farmers do not have bank accounts and therefore the assessee was required to withdraw cash and give it to the farmers.

4.3 Further referring to the bank statement, it was submitted that all the credits in his bank account were through normal banking channel and only cash withdrawals was made during the year. Further copy of the Balance Sheet, P&L Account, Bank Statement and VAT returns were submitted.

4.4 It was accordingly submitted that the amount withdrawn from the bank account was not the assessee's income and the sources thereof is clearly the receipts from the Government Agency which has been further distributed to the farmers and on which the assessee has received commission which is duly offered to tax.

5. The submissions so made were considered but not found acceptable to the Ld. CIT(A). As per the Ld. CIT(A), it is for the assessee to furnish cogent evidence of his claim of having received money from cooperative and having paid to the farmers. It was stated that the assessee has not furnished any copy of J Form as called for. Accordingly the appeal was held to be without merit and same was dismissed.

6. Against the aforesaid findings and order of the Id CIT(A), the assessee is in appeal before us.

7. During the course of hearing, the Id AR reiterated the submissions made before the Id CIT(A) and on the other hand, the Id DR relied on the findings of the Id CIT(A).

8. We have heard the rival contentions and perused the material available on record. The relevant provisions which are under consideration are contained in section 69C which read as under:

“69C. Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the Assessing Officer, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year.

Provided that, notwithstanding anything contained in any other provision of this Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income.”

9. A bare perusal of the aforesaid provision makes it clear that where the assessee has incurred any expenditure and offers no explanation about the sources of such expenditure or part thereof or the explanation if any offered by him is not satisfactory in the opinion of the AO, in such situation only the deeming provision are attracted. The provision nowhere talks about the fact that where there are cash withdrawals from the assessee's bank account, the provisions can be straight way applied. The assessee has duly explained the source of such cash withdrawals from his bank account wherein all the credits are receipts through the normal banking channel from the Government agency which has procured the wheat and paddy which the assessee has sold on behalf of the farmers and there are no cash deposits. The AO was ceased of the assessee's bank statement with the Axis Bank and the credits received from the Government Agency towards procurement of wheat and paddy on behalf of the farmers are not doubted by the AO and there is no adverse finding recorded by the AO. Therefore, where the credits in the bank account are duly explained and accepted, the source of cash withdrawals out of such deposits

and credit stand duly explained. We are accordingly of the considered view that the provisions of section 69C are not attracted in the instant case. The addition so made by the AO and sustained by the Id CIT(A) is hereby set-aside and directly to be deleted.

10. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 05/04/2024.

Sd/-

संजय गर्ग
(SANJAY GARG)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

विक्रम सिंह यादव
(VIKRAM SINGH YADAV)
लेखा सदस्य/ ACCOUNTANT MEMBER

AG

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar