

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE JUSTICE (RETD.) C.V. BHADANG, PRESIDENT AND
SHRI R.K. PANDA, VICE PRESIDENT

ITA no.104/Nag./2023
(Assessment Year : 2014-15)

ITA no.105/Nag./2023
(Assessment Year : 2015-16)

Dy. Commissioner of Income Tax
Central Circle-2(1), Nagpur

..... Appellant

v/s

Shri Biharilal Shadhuram Chhabriya
Kirana Oli, Maskasath, Shahid Chowk
Itwari, Nagpur 440 032
PAN AASPC9392D

..... Respondent

Assessee by : Shri Abhay Agrawal
Revenue by : Shri Kailash C. Kanojiya

Date of Hearing – 30.04.2024

Date of Order – 30/04/2024

ORDER

PER R.K. PANDA, VICE PRESIDENT

The present appeals have been filed by the Revenue challenging the impugned order dated 21/02/2023, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax (Appeals)-3, Nagpur, [*"the learned CIT(A)"*], for the assessment year 2014-15 and 2015-16.

ITA no.104/Nag./2023
Revenue's Appeal : A.Y. 2014-15

2. For the year under consideration, the Revenue has raised following grounds:-

"1. On the facts and in the circumstances of the case, the Ld. CIT(A) erred in deleting the addition of Rs. 2,50,000/- on account of cash loan u/s 69A of the I.T. Act, 1961, without appreciating the fact that the addition of Rs.2,50,000 made by the A.O. was supported with finding as per the document seized during the search action u/s 132 of the Act.

2. On the facts and in the circumstances of the case, the Ld. CIT(A) erred in deleting the addition of Rs. 45,000/- on account of interest income earned on the cash loan advanced, without appreciating the fact that the addition of Rs. 45,000/- made by the AO was supported with finding found as per the document seized during the search action u/s 132 of the I.T. Act, 1961.

3. Whether on the fact and in the circumstances of case, Lt. CIT(A) is correct in holding that no evidence has been collected from the borrower, when loan transactions are made in cash and the same is not recorded in the books of the assessee i.e. Shri Biharilal Shadhuram Chhabariya and also in the books of borrowers.

4. Whether on the fact and in the circumstances of case, Ld. CIT(A) is correct in considering that the AO has failed to adduce any evidence to establish that the money recorded in the documents seized from the locker of the appellant's employee belonged to the appellant, when the appellant himself has accepted that all the documents found and seized in the locker no.321, in the name of his employee Smt. Vinita Prabhakar Kale.

5. Any other grounds and fact to be raised at the time of appeal."

ITA no.105/Nag./2023
Revenue's Appeal : A.Y. 2015-16

3. In this appeal, the Revenue has raised following grounds:-

"1. On the facts and in the circumstances of the case, the Ld. CIT(A) erred in deleting the addition of Rs. 1,01,50,000/- on account of cash loan u/s 69A of the I. T. Act, 1961, without appreciating the fact that the addition of Rs. 1,01,50,000/- made by the AO was supported with finding as per the document seized during the search action u/s 132 of the I. T. Act, 1961.

2. On the facts and in the circumstances of the case, the Ld. CIT(A) erred in deleting the addition of Rs. 18,27,000/- on account of interest income earned on the cash loan advanced, without appreciating the fact that the addition of Rs. 18,27,000/- made by the AO was supported with finding found as per the document seized during the search action u/s 132 of the I. T. Act, 1961.

3. Whether on the fact and in the circumstances of case, Lt. CIT(A) is correct in holding that no evidence has been collected from the borrower, when loan transactions are made in cash and the same is not recorded in the books of the assessee i.e. Shri Biharilal Shadhuram Chhabariya and also in the books of borrowers.

4. *Whether on the fact and in the circumstances of case, Ld. CIT(A) is correct in considering that the AO has failed to adduce any evidence to establish that the money recorded in the documents seized from the locker of the appellant's employee belonged to the appellant, when the appellant himself has accepted that all the documents found and seized in the locker no. 321 in the name of his employee Smt. Vinita Prabhakar Kale.*

5. *Any other grounds and fact to be raised at the time of appeal."*

4. Since both these appeals pertain to the same assessee involving common issues arising out of identical set of facts and circumstances, therefore, as a matter of convenience, these appeals were heard together and are being disposed off by way of this consolidated order.

5. At the outset, the learned Counsel appearing for the assessee submitted that the tax effect on the amount disputed by the Revenue is much below the revised monetary limit of ₹ 50 lakh applicable to appeals pending before the Tribunal, as per CBDT Circular no.17 of 2019, dated 08/08/2019. Further, he submitted, none of the exceptions provided in CBDT Circular no.3 of 2018, dated 11/07/2018 r/w circular F.no.279/Misc./142/2007-ITJ-(Pt) dated 20/08/2018, would apply to Revenue's appeals. Thus, the learned Counsel for the assessee submitted that Revenue's appeals being covered under the aforesaid Circulars are not maintainable, hence, liable to be dismissed as such.

6. The learned Departmental Representative agreed that the tax effect on the amount disputed by the Revenue is below the monetary limit of ₹ 50 lakh.

7. Having heard both the parties and perused the material on record as well as the orders of the authorities below, we find that the tax effect of the amount disputed by the Revenue in the present appeals is admittedly below the revised monetary limit of ₹ 50 lakh as per CBDT Circular no.17 of 2019, dated 08/08/2019, r/w CBDT Circular no.3/2018, dated 11/07/2018. It also stands clarified by the CBDT that the revised monetary limit of ₹ 50 lakh as per the aforesaid CBDT Circulars would also apply to all pending appeals.

8. In view of the above, Revenue's appeals deserve to be dismissed. However, the Revenue is at liberty to seek recall of this order if, at a later point of time, it is found that the appeals fall under any of the exceptions provided in the Circulars referred to above.

9. In the result, both the appeals filed by the Revenue are dismissed.

Order pronounced in the open Court at the time of hearing itself i.e., on 30/04/2024.

Sd/-
JUSTICE (RETD.) C.V. BHADANG
PRESIDENT

Sd/-
R.K. PANDA
VICE PRESIDENT

NAGPUR, DATED: 30/04/2024

Copy of the order forwarded to:

- (1) The Assessee;*
- (2) The Revenue;*
- (3) The PCIT / CIT (Judicial);*
- (4) The DR, ITAT, Nagpur; and*
- (5) Guard file.*

*Pradeep J. Chowdhury
Sr. Private Secretary*

By Order

Sr. Private Secretary
ITAT, Nagpur