

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES,"SMC" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य के समक्ष
BEFORE: Hon'ble SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 241/JP/2024
निर्धारण वर्ष / Assessment Year : 2012-13

Shri Kailash Chand Sonkhiya C-6, Transport Nagar Jaipur 302 004	बनाम Vs.	The ITO Ward 5 (1) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ADPPS 3317 J		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारित की ओर से / Assessee by : Shri P.C. Parwal, CA
राजस्व की ओर से / Revenue by: Mrs. Monisha Choudhary, Addl. CIT-DR

सुनवाई की तारीख / Date of Hearing : 23/04/2024
उद्घोषणा की तारीख / Date of Pronouncement: 10 /07/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the ld. CIT(A) dated 10-01-2024, National Faceless Appeal Centre, Delhi [hereinafter referred to as (NFAC)] for the assessment year 2012-13 raising therein following ground of appeal.

“Based on facts and circumstances of the case and in law, the CIT(A) has erred in confirming addition of Rs. 18,00,000 under section 69A of the Income-tax Act, 1961 by treating cash deposit in bank account to this extent as unexplained without appreciating that the same was deposited

partly out of the opening balance as on 1 April 2011 of Rs.11,50,000 and partly out of realization of debtors and transaction made during the year.’’

2.1 Brief facts of the case are that the assessee is a Prop: of M/s. Kailash Goods Transport Co and derives income by plying of hired trucks for transportation of goods for various places. It is an undisputed and admitted fact that initially no return of income was filed by the assessee. Therefore, the case of the assessee was reopened and consequently after providing of opportunity of hearing to the assessee, the assessment vide order dated 27-12-2018 u/s 143(3) r.w.s 147 of the Act was completed by making addition as according to the AO no explanation was offered by the assessee for cash deposit in the bank account.

2.2 During the appellate proceedings, although the assessee has submitted the explanation for cash deposits in the bank account out of opening balance and current year transaction. However, no documentary evidences with regard to source of opening balance and realization from debtors was available . Therefore, the Id. CIT(A) restricted the addition to Rs.18.00 lacs after accepting the explanation of cash deposits to the extent of Rs.3.00 lacs from the cash withdrawals from the bank.

2.3 After hearing both the parties and perusing the materials available on record, the Bench found that the assessee during the year has made cash deposit of Rs 21,00,000/- in bank account (PB 7- 9), the source of which is as under:-

Date of Deposit	Amount	Source of Deposit
25.07.2011	13,00,000/-	Out of opening balance of 11,50,000/-, realisation of debtors of Rs. 1,16,340/-and out of the cash available from current year transaction
26.07.2011	5,00,000/-	Out of cash available from current year transaction
22.09.2011	2,00,000/-	Out of cash withdrawal of Rs.9,00,000 on 07.09.2011 from the bank account
23.09.2011	1,00,000/-	Out of cash withdrawal of Rs.9,00,000 on 07.09.2011 from the bank account

Since Id. CIT(A) has accepted the explanation of the assessee regarding cash deposits Rs.2,00,000/-on 22.09.2011 and Rs.1,00,000/- on 23.09.20211 out of withdrawal of Rs.9,00,000/- on 07.09.2011 (PB 9) as explained but has not accepted the source of cash deposit of Rs.13,00,000/- on 25.07.2011 & Rs.5,00,000/- on 26.07.2011 by holding that no documentary evidence regarding source of opening balance, realisation from debtors and deposit out of current year transaction is available. However, in holding so, it is ignored that opening cash in hand of Rs.11,50,000/- is verifiable from the Balance Sheet as on 31.03.2011 (PB 4) filed in course of the assessment proceedings for A.Y. 2011-12. Further realisation of Rs.1,16,340/- is also verifiable from the Balance Sheet as on

31.03.2011. The remaining cash deposit of Rs.5,33,660 (13,00,000+ 5,00,000- 11,15,000-1,16,340) is out of the current year transactions for which though direct evidence is not available but considering the fact that assessee is engaged in transportation business and has also subsequently withdrawal cash of Rs.14,30,000/- (8,30,000 9,00,000 2,00,000- 1,00,000) from his bank account in August & September 2011, the cash deposit of Rs.5,33,660 out of the current year transaction should be accepted. Hence, in view of the above facts and circumstances of the case and the details as mentioned above, the Bench does not concur with the findings of the ld. CIT(A). Hence, the addition sustained amounting to Rs.18.00 lacs is directed to be deleted. Thus the appeal of the assessee is allowed.

3.0 In the result, the appeal of the assessee stands allowed with no orders as to costs.

Order pronounced in the open court on 10/07/2024.

Sd/-

(संदीप गोसाईं)
(Sandeep Gosain)
न्यायिक सदस्य/Judicial Member

जयपुर/Jaipur
दिनांक/Dated:-

10/07/2024

***Mishra**

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

1. The Appellant- Shri Kailash Chand Sonkhia, Jaipur
2. प्रत्यर्थी / The Respondent- The ITO, Ward 5(1), Jaipur
3. आयकर आयुक्त / The Id CIT
4. आयकर आयुक्त(अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 241/JP/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar