

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'E' NEW DELHI**

**BEFORE SH. PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
I.T.A. No. 25/DEL/2023 (A.Y 2019-20)**

ACIT 3 rd Floor, Income Tax Office, Opposite Bainsali Ground, Meerut, Uttar Pradesh (APPELLANT)	Vs.	Mohd. Zahid Siddiqui 246, Lane No. 4, Haiderpur Road, Shalimar Bagh, New Delhi PAN No. ABOPZ6005F (RESPONDENT)
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Assessee by :	Sh. Vaibhav Goel, CA
Department by:	Sh. Anshul, Sr. DR

Date of Hearing	04.07.2024
Date of Pronouncement	24.07.2024

ORDER

PER YOGESH KUMAR U.S., JM

This appeal is filed by the Revenue for Assessment Year 2019-20 against the order of the Ld. Commissioner of Income Tax (Appeals), 4 Kanpur-4 dated 27/10/2022.

2. The Grounds of Appeal are as under:-

“1. On facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition made by the assessing Officer of Rs. 10,00,000/- u/s 69A of the IT Act on account of unexplained money and Rs. 15,24,50,000/- u/s 68 of the IT Act on account of unexplained cash credits.

2. *On facts and circumstances of the case and in law, the Ld. CIT(A) has erred in not appreciating the fact that creditworthiness of the lenders have not been established properly for want of ITR, complete bank accounts and other details during the course of assessment proceedings.*

3. *On facts and circumstances of the case and in law, the Ld. CIT(A) is not justified in pronouncing its decision only based upon referring the judgement of the Apex Court in the case of M/s Singhad Technical and Educational Society and CIT vs Kabul Chawla. However, the other referred judicial decisions quoted by the AO in his order, have not been considered and analyzed with respect to the case. Like:*

In the case of CIT vs N. Tarika Properties Investment, Hon'ble Supreme Court observed that 'PAN cannot be treated as sufficient disclosure of identity of the person, PANS are allowed on the basis of application without actual de facto clarification of identity or ascertainment of activities, nature of business activity and are just as to facilitate the Revenue to keep track of transactions and thus PAN cannot be blindly and without consideration of surrounding circumstances treated as sufficient disclosing the identity of individual.

In the case of Navodaya Castle (P) Ltd. vs CIT, it has been held that mere filing of certificate of incorporation, PAN were not sufficient for sufficient for the purpose of identification of subscriber company.

In the case of Pr. CIT vs M/s Shri Mehandipur Balaji, Hon'ble Allahabad High Court held that the Assessing Officer has the power to reassess the returns of the assessee not only for the undisclosed income, which was found during the search operation but also with regard to the material that was available at the time of original assessment.

4. *That the appellant craves leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”*

3. Brief facts of the case as mentioned in the order of the CIT(A)

are as under:-

“On 17.11.2018, information was received from AIU Delhi that a passenger Sh. Firoz Rana was travelling by Indigo Flight No. 6E-943 from New Delhi to Lucknow and carrying cash of Rs. 10,00,000/-. Sh. Firoz Rana was intercepted at Lucknow Airport and cash of Rs. 10,00,000/- was found from his possession. The warrant was executed over Sh. Firoz Rana and the search assessment proceedings were completed u/s 153A of IT Act. However during the search proceedings, post search inquiries and assessment proceedings in case of Sh. Firoz Rana, it was found that this money belonged to Sh. Mohd. Zahid prop. of M/s. Hitkari Productions and Creations, therefore information was passed on to the jurisdictional assessing officer. Order u/s 127 of IT Act was passed by PCIT Ghaziabad vide order F No. Pr. CIT-GZB/ITO(T&J)/u/s 127/Meerut/2021-22/1482 dt. 23.08.2021 centralizing the case from ITO Ward 1(1)(1), Meerut to DCIT/ACIT CC-Meerut. The case records and the appraisal report were transferred to DCIT Central Circle Meerut on 06.04.2021 in pursuance to guidelines of the board vide F No. 225/126/2020/ITA-II dt. 17.09.2022. The reasons for initiating proceedings u/s 153C of IT Act were recorded on 02.09.2021 and notice u/s 153C of IT Act was issued and served on 14.09.2021. Notice u/s 142(1) along with questionnaire was issued on 23.09.2021 and final show cause was issued to the appellant on 27.09.2021 and the assessment order was passed on 30.09.2021. The A.O. completed assessment by making addition of Rs. 10,00,000/- u/s 69A of IT Act and protective addition of Rs. 15,24,50,000/- u/s 68 of IT Act.”

4. Aggrieved by the assessment order dated 30/09/2021, the assessee preferred an appeal before the CIT(A), the Ld. CIT(A) vide order dated 27/10/2022 allowed the Appeal filed by the assessee by deleting the addition made by the A.O. As against the order of the Ld. CIT(A), the Department of Revenue is in Appeal under the Grounds mentioned above.

5. The Ld. Departmental Representative vehemently submitted that the Ld. CIT(A) erred in deleting the addition of Rs. 10,00,000/- u/s 69A of the Act made by the A.O. on account of unexplained money and also committed error in deleting Rs. 15,24,50,000/- made u/s 68 of the Act on account of unexplained cash credit without appreciating the fact that the creditworthiness of the lenders have not been established properly by the Assessee during the assessment proceedings. By relying on the findings of the assessment order, the Ld. Departmental Representative sought for intervention of the Tribunal.

6. Per contra, the Assessee's Representative relying on the order of the Ld. CIT(A) submitted that the assessee has submitted the

existence of cash supported by bank withdrawals from the assessee, therefore, the Ld. CIT(A) has rightly deleted the addition of Rs. 10,00,000/- and in so far as protective addition of Rs. 15,24,50,000/- is concerned, the Ld. Counsel submitted that the said addition is not emanating from any incriminating material, thus, submitted that the Ld. CIT(A) has rightly deleted the addition, therefore, by supporting the order of the Ld. CIT(A), sought for dismissal of the Appeal filed by the Department of Revenue.

7. We have heard both the parties and perused the material available on record. On 17/11/2018, a cash of Rs. 10,00,000/- found in the possession of one Mr. Firoz Rana while travelling by Flight from New Delhi to Lucknow. The said Sh. Firoz Rana explained that the said amount has been withdrawn on the very same day from the current account belong to the Assessee's firm M/s Kitkari Productions. During the assessment proceedings, the Assessee produced the evidence of withdrawal from HDFC Bank and the copy of MOU entered between UP State Tourism Development Corporation Ltd. and M/s Kitkari Productions and Creations dated 03/08/2018. It was explained before the Ld.

CIT(A) that the said amount was carried to Lucknow to spend on the development work to be carried out at the Kumbh Mela 2019 to distribute the wages to labours and to incur the expenses as required. We have verified the letter of the bank confirming the withdrawal timing of cash of Rs. 10,00,000/-, wherein it is mentioned that the cash of Rs. 10,00,000/- has been withdrawn on 17/11/2018 at 11:14am and as per the Flight Ticket, the said passenger had to fly at 1:30 pm on 17/11/2018. Thus, the Assessee has provided proper explanation for withdrawal of the cash. Considering the above facts and circumstances, we find no error or infirmity in the order of the Ld. CIT(A) in deleting the said addition.

8. In so far as protective addition of Rs. 15,24,50,000/- made u/s 68 of the Act, it is not in dispute that the said addition is not emanating from any incriminating material, therefore, the addition has been deleted by the Ld. CIT(A). Considering the settled position of law on the point in the case of PCIT Vs. Abhisar Buildwell in Civil Appeal No. 6580/2021, we find no reason to

interfere with the order of the Ld. CIT(A), accordingly, the Grounds of Appeal of the Revenue are dismissed.

9. In the result, Appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 24th JULY, 2024.

Sd/-

**(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER**

Dated : 24/07/2024

*R.N, Sr. PS**

Copy forwarded to :

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

Sd/-

**(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

ASSISTANT REGISTRAR
ITAT NEW DELHI

