

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES : SMC-II : NEW DELHI

BEFORE SHRI J. SUDHAKAR REDDY, ACCOUNTANT MEMBER

ITA Nos.4154 & 4155/Del/2015

Assessment Year : 2009-10

Satish Kumar,  
Shop-83,  
Sector-17,  
Gurgaon.

Vs. ITO,  
Ward-1(3),  
New Delhi.

PAN: AOXPk0445A

(Appellant)

(Respondent)

Assessee By : Shri K.P. Ganguli, Advocate  
Department By : Mrs. Rakhi Vimal, JCIT

Date of Hearing : 13. 08.2015  
Date of Pronouncement : 04.11.2015

ORDER

ITA No.4154/Del/2015 is an appeal by the assessee directed against the order of the CIT(A), Gurgaon, dated 24.4.2015 for the assessment year 2009-10, where an order u/s 143(3) was partly confirmed

2. ITA No.4155/Del/2015 is filed against the order of the CIT(A), Gurgaon dated 2.3.2015, where penalty levied u/s 271(1)(c) was partly confirmed by the Id.CIT(A). There is a delay of 48 days in filing of this appeal. The assessee filed an application for condonation of delay along with an affidavit. After perusing the same and the evidences attached, I am of the considered opinion that the assessee was prevented by sufficient cause from filing the appeal in time. Hence, the delay is condoned and the appeal is admitted.

3. The sole issue in ITA No.4154/Del/2015 is confirmation of an addition u/s 68 of the Act of Rs.5 lac, on the ground that the credit worthiness of the creditor has not been proved.

4. I have perused the evidence filed which is in the form of confirmation letter from Shri Ranbir Singh, bank account copy of Shri Ranbir Singh and copy of his PAN card. The identity of Shri Ranbir Singh is not in doubt. On a perusal of the bank statement, I am of the considered opinion that Shri Ranbir Singh has the credit worthiness to advance this amount to the assessee. The assessee, in my opinion, has

discharged the burden of proof that lay on him, by furnishing necessary evidences in support of the cash payment. On the other hand, the ITO has not conducted any inquiry or investigation, nor has he collected evidence to disprove the claim of the assessee. Under these circumstances, I uphold the contentions of the assessee and allow this ground. The AO is directed to delete the addition of Rs.5 lac.

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

6. Since the addition of Rs.5 lac, which is the basis of imposing penalty, has been deleted, the penalty does not survive and the same is, therefore, deleted.

7. In the result, the appeals of the assessee are allowed.

The order pronounced in the open court on 04.11.2015.

Sd/-

[J.SUDHAKAR REDDY]  
ACCOUNTANT MEMBER

Dated, 04<sup>th</sup> November, 2015.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

AR, ITAT, NEW DELHI.