

**IN THE INCOME TAX APPELLATE TRIBUNAL, “ C ” BENCH, KOLKATA**

Before : **Shri Mahavir Singh, Judicial Member, and  
Shri M. Balaganesh, Accountant Member**

**I.T.A No. 633/Kol/2013 A.Y 2009-10**

Prasanjit Chatterjee  
PAN: ACPPC7618H  
(Appellant)

Vs.

D.C.I.T, Cir-33, Kolkata

(Respondent)

For the Appellant: Shri Subash Agarwal &  
Ms. Varsha Jalan, Advocates, Id.ARs

For the Respondent : Shri A.R Roy, JCIT, Id.Sr.DR

Date of Hearing: 02-02-2016

Date of Pronouncement: 05 -02-2016

**ORDER**

**SHRI M.BALAGANESH, AM**

This appeal of the assessee arises out of the order of the Learned CIT(A), XIX, Kol in Appeal No. 157/CIT(A)/DCIT, Cir-33, Kol/12-13 dated 01-02-2013 for the Asst Year 2009-10 against the order of assessment framed by the Learned AO u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the ‘Act’).

2. The only issue to be decided in this appeal is as to whether the addition of Rs.39,01,000/-towards unexplained cash deposits could be made u/s. 69A of the Act in the facts and circumstances of the case.

3. The brief facts of this issue are that the assessee is a director of M/s. Chatterjee Cold Storage (P) Ltd. During the course of assessment proceedings u/s. 143(3) of the Act, the Id. AO found from the enquiry with the Indian Bank, Bankura Branch that in the savings bank account vide account bearing no.828857329, cash of

Rs.39,01,000/-was deposited during the period 24/03/2009 to 31/03/2009. The Id. AO found that the said bank account was not disclosed by the assessee in his balance sheet. Before the Id.AO the assessee had tried to explain these cash receipts represent the monies which were collected from various farmers, agriculturists, stockiests, who intended to book the cold storage space in M/s. Chatterjee Cold Storage (P) Ltd. The assessee had collected the said advances from these parties only in the capacity of the director of the said company, M/s. Chatterjee Cold Storage (P) Ltd. On verification, the Id.AO found that the said advances were also not reflected in the books of M/s. Chatterjee Cold Storage (P) Ltd. Accordingly, he disbelieved the version of the assessee that the said receipts pertained to M/s. Chatterjee Cold Storage (P) Ltd and brought the said cash deposits as unexplained cash credit u/s. 68 of the Act. This action of the Id.AO was confirmed by the Id. CIT(A). Aggrieved, the assessee is in appeal before us on the following ground:-

*1) That on the facts and in the circumstances of the case the Ld.CIT(Appeals) erred in affirming the addition of Rs. 39,01,000/- as unexplained money u/s 69A and the addition is not sustainable.*

4. The Id.AR argued that the monies belonged to M/s. Chatterjee Cold Storage (P) Ltd only and money was received by the assessee as advances on behalf of the said company i.e M/s. Chatterjee Cold Storage (P) Ltd [(P) Ltd. towards booking of cold storage space from as many as 97 different farmers, agriculturists and stockiest. Accordingly, the Id.AR of the assessee argued that the assessee has given the names and address of the various parties from whom the said advances were received. Thus, she prayed before us that no addition on this count could be made u/s. 68 of the Act. During the course of hearing before us she referred to page 11 of the assessee's paper book containing a certificate issued by the Senior Manager, Indian Bank, Bankura Branch, wherein it was certified that the said bank account [bearing no. 828857329] was opened on 24-03-2009 in favour of Chatterjee Cold Storage (P) Ltd., Bankura. She also referred to page 6 of the Id. CIT(A)'s order , wherein vide Ref No..... dated

23-3-2009 a letter was written by M/s. Chatterjee Cold Storage (P) Ltd addressed to Director of Marketing In-Charge & Ex-Officio Additional Director of Agriculture (Marketing) West Bengal, P-16, Exchange Place Extn (4<sup>th</sup> floor), Kolkata- 73 regarding the fact that the cold storage unit was closed under compelling circumstances due to non availability of potatoes. She argued that based on this incident only, the assessee had collected the advances on behalf of the said company i.e M/s. Chatterjee Cold Storage (P) Ltd and deposited the same in the said designated bank account. In response to this the Id. Sr. DR vehemently supported the orders of the lower authorities.

5. We have heard the rival submissions and perused the material available on record including the details filed in the paper book before us. We find that at the outset, we find that the bank statement as forwarded by the Indian Bank is in the name of Shri Prasanjit Chatterjee, the assessee herein, which is enclosed from pages 1-2 of the assessee's paper book. However, from page 11 of the paper book containing the certificate issued by Senior Manager, Indian Bank, Bankura Branch, Bankura, we find that the said bank account [bearing no. 828857329] was opened on 24-03-2009 in favour of Chatterjee Cold Storage (P) Ltd., Bankura. This creates a basic discrepancy on the facts as to whether the bank account was opened in the name of the assessee or in the name of M/s. Chatterjee Cold Storage (P) Ltd. This requires verification by the Id.AO. In these facts and circumstances, we deem it fit and appropriate, in the interest of justice and fair play, to set aside this issue to the file of the Id.AO to verify the discrepancy regarding the fact that in whose name the bank account was opened and to decide the issue afresh. The assessee is directed to cooperate with the set aside proceedings before the Id.AO by placing real facts in this regard. If it is proved that the bank account is in the name of the assessee, the assessee is duty bound to explain the sources for the deposits made in the said bank account of the assessee. Ground no.1 raised by the assessee in the appeal is allowed for statistical purposes.

6. Regarding next ground, during the course of hearing the Id.AR of the assessee has stated before us that she is not pressing the ground no.2. The same is taken as statement from the bar. Accordingly, ground no.2 as raised by the assessee before us is dismissed as not pressed.

7. In the result, the appeal of the assessee is partly allowed for statistical purpose as stated above.

THIS ORDER IS PRONOUNCED IN OPEN COURT ON 05 -02-2016

Sd/-  
( Mahavir Singh, Judicial Member )

Sd/-  
(M. Balaganesh, Accountant Member)

Date 05 -02-2016

Copy of the order forwarded  
to:-

- 1.. The Appellant: Shri Prasanjit Chatterjee 158 Lenin Sarani, Kol-13.
- 2 The Respondent- The Deputy Commissioner of Income Tax Officer, Circle-33, 10B, Middleton Row, Kolkata.
- 3 /The CIT, 4.The CIT(A)
5. DR, Kolkata Bench
6. Guard file.

True Copy,

By order,

Asstt Registrar

\*\*PRADIP SPS