

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "SMC-1", NEW DELHI

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

	I.T.A. No. 5005/DEL/2013	
	A.Y. : 2008-09	
ANIL KUMAR GUPTA 114, AFGANAN STREET, DELHI GATE, GHAZIABD UP - 201001 (PAN: ACRPG3803E)	VS.	ITO, WARD 1(1), CGO COMPLEX, HAPUR CHUNGI, GHAZIABAD - 201 011 (UP)
(APPELLANT)		(RESPONDENT)

Assessee by : Sh. Satish K. Gupta, Adv.
Department by : Sh. FR Meena, Sr. DR

ORDER

Assessee has filed this Appeal against the impugned Order dated 07.5.2013 passed by the Ld. CIT(A), Muzaffarnagar relevant to assessment year 2008-09 on the following grounds:-

1. That the assessment order passed u/s. 143(3) is illegal, unjust and arbitrary.
2. That the Ld. Lower authorities had erred in law and on facts in marking an enhancement in business income by Rs. 1,05,500/- as bogus deposits.
3. The Ld. Lower authorities have erred in law and on facts not accepting the deposits taken

in cash aggregating to Rs. 1,05,500/- from following persons.

Sh. Ashok Garg Rs. 18,000/-

Smt. Mamta Agarwal Rs. 18,500/-

Sh. Pawan Agarwal Rs. 18,000/-

Sh. Rajeev Kumar Rs. 10,000/-

Smt. Pratibha Gupta Rs. 10,000/-

Shri Satish Kumar Rs. 18,000/-

Shri Vipin Kumar Rs. 13,000/-

Rs. 1,05,500/-

4. That the observations of the Id. Lower authorities are inconsistent with the facts and legal position of the case.
5. That without prejudice to the above grounds, the appellant reserves it's right to add or delete one or more grounds.

2. The brief facts of the case are that the assessee is a firm deriving income from trading of mill stores and hardware in the name and style of M/s Panchsheel Traders, Ghaziabad. Return declaring income of Rs. 1,28,080/- was filed on 30.9.2008. During the course of assessment proceedings it was gathered by the AO that the assessee has raised loans below Rs. 20,000/- in cash from the following seven persons:-

Sh. Ashok Garg Rs. 18,000/-

Smt. Mamta Agarwal Rs. 18,500/-

Sh. Pawan Agarwal	Rs. 18,000/-
Sh. Rajeev Kumar	Rs. 10,000/-
Smt. Pratibha Gupta	Rs. 10,000/-
Shri Satish Kumar	Rs. 18,000/-
Shri Vipin Kumar	<u>Rs. 13,000/-</u>
	Rs. 1,05,500/-

Thus, the AO required the assessee to establish the identity and creditworthiness of the depositors and genuineness of the transactions. In response the assessee furnished list of persons from whom unsecured loans were raised during the year alongwith copies of ledger accounts of the depositors as appearing in the books of the assessee. AO observed that the assessee has failed to establish the identity and creditworthiness of depositors as well as genuineness of transactions and based on this proposition, he added the amount of Rs. 1,05,500/- to the income of the assessee u/s. 68 of the I.T. Act, 1961 and completed the assessment at an income of Rs. 2,33,580/- u/s. 143(3) of the I.T. Act, 1961 vide his order dated 06.12.2010.

3. Against the order of the Ld. AO, assessee appealed before the Ld. CIT(A), who vide his impugned order dated 07.7.2013 has

dismissed the appeal of the assessee and sustained the addition in dispute.

4. Aggrieved with the order of the Ld. CIT(A), Assessee is in appeal before the Tribunal.

5. Ld. Counsel of the assessee has filed the Paper Book containing pages 1 to 65 attaching therewith the copy of facts of the case; copy of grounds of appeal before ITAT; copy of appellate order of CIT(A); copy of grounds of appeal before CIT(A); copy of submissions before CIT(A); copy of rejoinder to Remand Report dated 7.5.2013; copy of ledger accounts filed alongwith reply dated 9.8.2010 and certified copies of order sheet. He further stated that during the course of assessment proceedings the entire details were furnished before the AO as and when asked for. Regarding the unsecured loans received in cash the assessee had furnished the documents and papers to establish the identity, creditworthiness and the genuineness of the transactions and the confirmation of the amount. He further stated that all the above unsecured loans were taken in the business of M/s Panch Sheel Traders, Proprietor Anil Kumar and were appearing in the cash book of the assessee. The deposits were accepted in cash as genuine business needs in day to day business and the same were repaid in cash. As the

amount was petty no banking channel was involved to meet the business contingency. Hence, he submitted that assessee has established all three ingredients of Section 68 of the I.T. Act, 1961 and requested to delete the addition.

6. On the other hand, Ld. Sr. DR relied upon the orders of the authorities below and stated that Ld. CIT(A) has passed a well reasoned order which does not need any interference on my part, hence, the appeal of the assessee may be dismissed.

7. I have heard both the parties and perused the records especially the impugned order and the Paper Book filed by the assessee containing pages 1 to 65 attaching therewith the copy of facts of the case; copy of grounds of appeal before ITAT; copy of appellate order of CIT(A); copy of grounds of appeal before CIT(A); copy of submissions before CIT(A); copy of rejoinder to Remand Report dated 7.5.2013; copy of ledger accounts filed alongwith reply dated 9.8.2010 and certified copies of order sheet. I find that during the course of assessment proceedings the entire details were furnished before the AO and with regard to unsecured loans received in cash, the assessee had furnished the documents and papers to establish the identity, creditworthiness and the genuineness of the transactions and the confirmation of the amount.

I find considerable cogency in the assessee's counsel submissions that all the unsecured loans were taken in the business of M/s Panch Sheel Traders, Proprietor Anil Kumar and were appearing in the cash book of the assessee. The deposits were accepted in cash as genuine business requirement in day to day business and the same were repaid in cash. I further find that as the amount was petty no banking channel was involved to meet the business contingency. In my considered view, these evidences established that addition in dispute is not sustainable in the eyes of law and therefore, the same is hereby deleted.

8. In the result, the Appeal filed by the Assessee stands allowed.

Order pronounced in the Open Court on 10/2/2017.

**Sd/-
[H.S. SIDHU]
JUDICIAL MEMBER**

Date 10/2/2017

"SRBHATNAGAR"

Copy forwarded to: -

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

Assistant Registrar,
ITAT, Delhi Benches