

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

BEFORE SHRI G.D. AGRAWAL, VICE PRESIDENT AND
SMT. BEENA A. PILLAI, JUDICIAL MEMBER

ITA No.1739/Del/2014
Assessment Year : 2008-09

Mr. Nafees Sagir Ahmad
Qureshi,
Tauri House, BSR Road,
Hapur.
PAN : AADPR0089L.
(Appellant)

Vs. Income Tax Officer,
Ward-1,
Hapur.
(Respondent)

Appellant by : Shri Akhilesh Kumar, Advocate.
Respondent by : Shri P. Dam Kanunjna, Senior DR.

Date of hearing : 29.03.2016
Date of pronouncement : 31.03.2016

ORDER

PER G.D. AGRAWAL, VP :-

This appeal by the assessee for the assessment year 2008-09 is directed against the order of learned CIT(A), Muzaffarnagar dated 19th November, 2013.

2. The assessee has raised as many as seven grounds. However, they are against the following three additions made by the Assessing Officer and sustained by the learned CIT(A) :-

- | | | | |
|-------|-----------------------------------|---|-------------|
| (i) | Unexplained creditors | : | ₹5,83,200/- |
| (ii) | Towards unverifiable purchases | : | ₹5,96,846/- |
| (iii) | Towards low household withdrawals | : | ₹1,44,178/- |

3. At the time of hearing before us, the learned counsel for the assessee stated that the assessee is carrying on small business of trading of buffalo omasum. The assessee filed the return disclosing total income at ₹2,27,884/- but the Assessing Officer made huge additions and disallowances amounting to ₹13,24,224/- thereby determining the assessed income at ₹15,52,058/-. He submitted that the confirmation of all the creditors was duly furnished before the Assessing Officer. Similarly, the assessee has furnished the necessary particulars with regard to each and every expenditure. The accounts of the assessee are audited. He further submitted that the household expenditure is mainly met by assessee's wife Smt. Farjana who is doing handicraft job work. He, therefore, submitted that the additions made by the Assessing Officer are not justified and liable to be deleted. He alternatively submitted that if at all the entire additions are not deleted, then a reasonable addition may be sustained. He also requested that the set off of addition sustained for unverifiable purchases should be given against the addition to be sustained against unexplained creditor/household expenditure, if any.

4. Learned DR, on the other hand, relied upon the orders of authorities below and he submitted that since it is a small matter, the Bench may make a reasonable estimate.

5. After considering the arguments of both the sides and perusing the assessment order, we deem it proper to uphold the disallowance out of various expenses amounting to ₹5,96,846/-. The Assessing Officer has mentioned that the assessee has not produced bills and vouchers of various expenses as well as purchases. He has, therefore, estimated the gross profit as disclosed by the assessee in the last year and the difference is added as unverifiable expenditure. After considering the facts of the case and arguments of both the sides, we

sustain the disallowance on account of unverifiable purchases and other expenses amounting to ₹5,96,846/-.

6. So far as the addition towards the unexplained creditors is concerned, we accept assessee's alternative submission of the set off against the addition sustained under the head 'unverifiable purchases'. Since the addition made and sustained for unverifiable purchases is more than the addition for creditors, we allow the set off of disallowance sustained under the head 'unverifiable purchases' against the addition for creditors and hold that no separate addition for unexplained creditors amounting to ₹5,83,200/- is to be made.

7. So far as household expenses are concerned, we find that the Assessing Officer made the addition of ₹1,44,178/- with the following finding:-

"The assessee has withdrawn for household expenses at Rs.25,456/- which is low. Assessee's counsel submitted that his wife Smt. Farjana contributed Rs.72,178/- for house hold withdrawals and the income of the assessee's wife is said to be from handicraft job work and she is not assessed to tax. In view of the fact that having two school going, she is involved in household/personal work and the said withdrawals are mere a colourable device. Accordingly equal amount of Rs.72,000/- is added to the income of the assessee treating unexplained cash credits. There are 5 members in the family and 2 sons are school going. Accordingly, towards low house hold withdrawal, Rs.72,000/- are added to the income of the assessee being a non-vegetarian family and higher expenses are required."

8. From the above, we find that at the end of his finding, the Assessing Officer has mentioned "Accordingly, towards low house hold withdrawal, Rs.72,000/- are added to the income of the assessee being a non-vegetarian family and higher expenses are required". However,

while making the final computation, he made the addition of ₹1,44,178/-. It seems that the Assessing Officer has also added ₹72,178/- being contribution of assessee's wife Smt. Farjana towards household expenses. In our opinion, there was no justification for the addition of ₹72,178/- being the contribution of assessee's wife towards the household expenses. If the Assessing Officer accepted her claim of contribution towards household expenditure, he should have given the set off of the same while estimating the household expenditure of the assessee. Even if the same is not accepted, then also, there is no justification for addition of the same in the hands of the assessee. In any case, when the Assessing Officer himself has mentioned after all discussion that ₹72,000/- are added to the income of the assessee, we are of the opinion that there is no justification of the addition of ₹1,44,178/-.

9. Now, we come to the alternative submission of the assessee with regard to set off of addition sustained under the head 'unverifiable purchases'. The addition sustained under the head 'unverifiable purchases' was ₹5,96,846/-. The set off of ₹5,83,200/- has been granted while considering the addition for unexplained creditors. The remaining set off of ₹13,646/- (₹5,96,846 - ₹5,83,200) is available for allowing set off against household expenditure. After allowing the same, the addition sustained for low withdrawal of household expenditure is ₹58,354/- (₹72,000 - ₹13,646).

10. In the result, the appeal of the assessee is partly allowed.

Decision pronounced in the open Court on 31.03.2016.

Sd/-

(BEENA A. PILLAI)
JUDICIAL MEMBER

Sd/-

(G.D. AGRAWAL)
VICE PRESIDENT

VK.

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1. Appellant : **Mr. Nafees Sagir Ahmad Qureshi,**
Tauri House, BSR Road, Hapur.
2. Respondent : **Income Tax Officer, Ward-1, Hapur.**
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar