

**IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK 'SMC' BENCH,  
CUTTACK**

**BEFORE SHRI N.S SAINI, ACCOUNTANT MEMBER**

**ITA No.280 /CTK/2016**  
Assessment Year : 2011-12

Sri Sujit Kumar Behera, Plot No.A-356, Saheed nagar, Bhubaneswar.	Vs.	ITO, Ward 2(2), Bhubaneswar.
PAN/GIR No. AFFPB 6168 Q		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri C.Parida, AR

Revenue by : Shri D.K.Pradhan, DR

**Date of Hearing : 24 /01/ 2017**

**Date of Pronouncement : 24/01/ 2017**

**ORDER**

This is an appeal filed by the assessee against the order of CIT(A)-2, Bhubaneswar, dated 23.3.2016, for the assessment year 2011-12.

2. The assessee has raised the following grounds of appeal:

""1. That the order passed by the CIT(A) is arbitrary, excessive, contrary to facts and bad in law.

2. That the CIT(A) is erred in calculating the peak credit without considering the genuine receipt and the opening bank balance in the bank account and withdrawn subsequently to redeposit the said in the said bank account.

3. That the CIT(A) is erred in confirming the addition of opening cash in hand to the tune of Rs.4,20,000/- made by the AO without considering the cash flow statement and other supporting details in respect of the same."

3. I have heard the rival submissions and perused the orders of lower authorities and materials available on record. In the instant case, the Assessing Officer found that the assessee has made cash deposit in the saving bank account No.2977000101014291 with Punjab National Bank, Chandrasekharpur Branch, Bhubaneswar and hence, he treated the same as unexplained deposit and made an addition of the entire cash deposit of Rs.33,02,620/- to the income of the assessee.

4. On appeal, Id CIT(A) held that the peak deposit as on 31.3.2011 of Rs.24,06,873/- should be treated as undisclosed income of the assessee. Being aggrieved, the assessee is in appeal before the Tribunal.

5. Ld A.R. of the assessee submitted that from the peak credit, following amounts should be reduced and the balance amount may be treated as undisclosed income of the assessee:

<u>Date</u>	<u>Amount(Rs.)</u>	<u>sources</u>
1.4.2010	5,04,035.18	opening bank balance
28.7.2010	3,30,800	Loan from Sister-Sasmita Behera
5.8.2010	59,272	Loan from friend
5.9.2010	3,003	Bank SB interest
26.10.2010	1,34,494	surrender value of insurance policy
27.1.2011	5,00,000	refund of loan taken by father
2.3.2011	3,519	bank SB interest

6. On the other hand, Id D.R. supported the orders of lower authorities.

7. I find that Id A.R. of the assessee has pointed out from annexure-1 of the paper book which is the copy of bank account of the assessee with Punjab & National Bank, which shows that there was opening balance of Rs.5,04,035.18. Further, from annexure-4 of the paper book, which is the copy of bank statement, it is observed that the assessee has earned interest from bank of Rs.3,003.00. From annexure-5 of the paper book, which is the copy of first premium receipt of Bajaj Allianz Life Insurance Company Limited, it is observed that the assessee has paid Rs.30,000/- towards premium amount. In the subsequent page to this annexure is the bank statement which shows that on 26.10.2010, Rs.1,34,494/- has been paid by the said Bajaj Allianz Life Insurance Company Limited. Further, annexure-6 of the paper book is the passbook of Uco Bank, Bhubaneswar, S.B. Account No.09230102005904, of Shri Sridhar Behera, father of the assessee, wherein, it is observed that Rs.5,00,000/- was paid on 7.1.2011 to the assessee. Further, annexure-7 of the paper book is the copy of pass book of the assessee, which shows that the credit of interest of Rs.3,519.00. Thus, from the above evidences, it is observed that the source of deposit for Rs.11,45,051.18 is explained and the source of deposit of Rs.3,30,800/- being loan from sister –Sasmita Behera and loan of Rs.59,272/- from friend is not explained by filing any evidence. In my considered view, out of peak deposit

of Rs.15,35,123.18, the assessee should be allowed credit for Rs.11,45,051.18 and addition for balance amount of Rs.12,61,822/- should be sustained. I, therefore, modify the order of Id CIT(A) and partly allow the grounds of appeal of the assessee.

8. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 24/01/2017 in the presence of parties.

Sd/-

(N.S Saini)

**ACCOUNTANT MEMBER**

Cuttack; Dated 24/01 /2017

B.K.Parida, SPS

**Copy of the Order forwarded to :**

1. The Appellant : Sri Sujit Kumar Behera, Plot No.A-356, Saheed nagar, Bhubaneswar.
  2. The respondent: ITO, Ward 2(2), Bhubaneswar.
  3. The CIT(A)-2, Bhubaneswar.
  4. Pr.CIT, Bhubaneswar.
  5. DR, ITAT, Cuttack
  6. Guard file.
- //True Copy//

BY ORDER,

ASST.REGISTRAR,  
**ITAT, Cuttack**