

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA 'A' BENCH, KOLKATA**

**Before Shri P.M. Jagtap, Accountant Member  
and Shri S.S. Viswanethra Ravi, Judicial Member**

**I.T.A. No. 2266/KOL/2013  
Assessment Year: 2010-2011**

**Sanjay Kumar Ram,.....Appellant**  
**Room No. 514, 5<sup>th</sup> Floor,**  
**27, Weston Street,**  
**Kolkata-700 001**  
**[PAN : AHEPR 8035 R]**  
**-Vs.-**

**Deputy Commissioner of Income Tax,.....Respondent**  
**Central Circle-XIII, Kolkata,**  
**Aayakar Bhawan Poorva,**  
**110, Shanti Pally,**  
**Kolkata-700 107**

**Appearances by:**

*Shri K.K. Chhaparia, FCA, for the assessee*

*Shri Amitabh Choudhury, Additional CIT, for the Department*

Date of concluding the hearing : April 19, 2016

Date of pronouncing the order : April 29, 2016

**O R D E R**

**Per Shri P.M. Jagtap :-**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), Central-II, Kolkata dated 19.07.2013 and the solitary issue arising out of the same relates to the addition of Rs.19,00,000/- made by the Assessing Officer and confirmed by the Id. CIT(Appeals) on account of peak credit appearing in the undisclosed Bank account of the assessee treating the same as unexplained cash credit.

2. The assessee in the present case is an individual. In the search and seizure action conducted under section 132 on 08.12.2009 in the cases of Shashikant Khetan Group, undisclosed Bank account maintained in the

name of the proprietary concern of the assessee with Standard Chartered Bank was found. In the return of income filed thereafter for the year under consideration, the assessee admitted that he was engaged in the business of providing accommodation entries in the name of his proprietary concern and the entries found recorded in the undisclosed Bank account with Standard Chartered Bank were related to the said activity. He also offered income of Rs.1,14,780/- for the year under consideration being commission received at the rate of 0.5% for providing accommodation entries as reflected in the said Bank account. During the course of assessment proceedings, the assessee was called upon by the Assessing Officer to explain the source of deposits found to be made in the undisclosed Bank account. In reply, it was explained by the assessee that the deposits in the undisclosed Bank accounts were inter-related with the withdrawals being inherent to the nature of transactions and, therefore, addition, if any, should be made only to the extent of peak credit appearing in the undisclosed Bank account. The working of such peak credit was also filed by the assessee showing the peak credit during the year under consideration at Rs.1,19,000/-. Although the Assessing Officer accepted the stand of the assessee that the addition on account of the transactions appearing in the undisclosed Bank account of the assessee should be made on the basis of peak credit, he did not find working made by the assessee of such peak credit to be correct. He proceeded to work out such peak credit himself at Rs.19,00,000/- and made addition to that extent to the total income of the assessee. On appeal, the Id. CIT(Appeals) upheld the working of peak credit made by the Assessing Officer but held that the addition on account of transactions reflected in the undisclosed Bank account of the assessee having been made on peak credit basis, no income towards commission as offered by the assessee at Rs.1,14,780/- could be assessed separately. Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

3. We have heard the arguments of both the sides and also perused the relevant material available on record. The ld. counsel for the assessee has furnished before us a summary of daily deposits and withdrawals reflected in his undisclosed Bank account and submitted that the peak credit of such deposits and withdrawals being Rs.5,75,000/- as on 10.10.2009, the addition made by the Assessing Officer should be restricted to Rs.5,75,000/-. We are unable to accept this contention of the ld. counsel for the assessee. A perusal of the relevant transactions reflected in the undisclosed Bank account of the assessee clearly shows that the deposits therein were made by cheques while the amounts were withdrawn in cash. It is thus not a case of all withdrawals and deposits made in cash from the said Bank account so that the manner in which the peak credit is worked out by the assessee at Rs.5,75,000/- can be accepted. In such a situation where the deposits are mainly made in cheques while withdrawals are mainly made in cash, the peak credit is required to be worked out at the maximum amount deposited by the assessee by way of cheques and since such deposits to the maximum extent were made on 01.10.2009 at Rs.19,00,000/-, the peak credit as worked out by the Assessing Officer at Rs.19,00,000/-, in our opinion, is absolutely correct in the facts and circumstances of the case. In that view of the matter, we uphold the impugned order of the ld. CIT(Appeals) confirming the addition of Rs.19,00,000/- made by the Assessing Officer on account of peak credit appearing in the undisclosed bank account of the assessee treating the same as unexplained credit under section 68 and dismiss this appeal of the assessee.

**4. In the result, the appeal of the assessee is dismissed.**

Order pronounced in the open Court on April 29, 2016.

**Sd/-**  
**(S.S. Viswanethra Ravi)**  
**Judicial Member**

**Sd/-**  
**(P.M. Jagtap)**  
**Accountant Member**

**Kolkata, the 29<sup>th</sup> day of April, 2016**

- Copies to : (1) **Shri Sanjay Kumar Ram,**  
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- (2) **Deputy Commissioner of Income Tax,**  
**Central Circle-XIII, Kolkata,**  
**Aayakar Bhawan Poorva,**  
**110, Shanti Pally,**  
**Kolkata-700 107**
- (3) *Commissioner of Income-Tax, Kolkata;*  
(4) *CIT(Appeals)-Central-II, Kolkata* ,  
(4) *The Departmental Representative*  
(5) *Guard File*

*By order*

*Assistant Registrar,*  
*Income Tax Appellate Tribunal,*  
*Kolkata Benches, Kolkata*

**Laha/Sr. P.S.**